

IN THE SUPREME COURT OF THE UNITED STATES

Nishith Patel,

Case No:

Applicant,

v.

Anne Albright, et. al.

Respondent.

APPENDIX TO EMERGENCY APPLICATION FOR INJUNCTION

Nishith Patel

Pro se

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APPENDIX

A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

U.S. DISTRICT COURT
DISTRICT OF MARYLAND
2021 OCT 26 PM 1:27
CLERK'S OFFICE
AT GREENBELT

NISHITH PATEL,

*

Plaintiff,

*

v.

*

Civil Action No. GJH-21-2409

ANNE ALBRIGHT, ET AL.,

*

Defendant.

*

ORDER

On September 20, 2021, plaintiff Nishith Patel filed the above-captioned civil rights complaint and paid the filing fee. ECF No. 1. Plaintiff alleges that defendant Albright, who is a Maryland state judge in Montgomery County Circuit Court, violated his rights when she made rulings against him in a custody dispute involving his daughter. ECF No. 1 at 2-3. Plaintiff seeks a writ of mandamus or injunction “requiring the defendant to disqualify herself from the family law case pending this litigation” and “vacating the defendant’s rulings in the family law case pending this litigation” as well as monetary and other relief. *Id.* at 5-6. The Complaint cites 42 U.S.C. § 1983 and 28 U.S.C. § 1651. On October 25, 2021, Plaintiff filed an Amended Complaint that is largely identical to the Complaint, but which adds Judges Mary Ellen Barbera and Stuart Berger as defendants. ECF No. 7. For reasons stated below, the complaint, as amended, will be dismissed.¹

“[D]istrict courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. § 1361. While a federal district court can compel an officer or

¹ On October 25, 2021, defendant Albright filed a Motion to Dismiss. ECF No. 5. Because the case is being dismissed *sua sponte*, the Motion to Dismiss will be denied as moot.

employee of the United States or its agencies to perform a duty, it has no mandamus jurisdiction over state employees and cannot compel the Maryland state courts to remove Albright as judge in plaintiff's case. *See, e.g., Gurley v. Super. Ct. of Mecklenburg Cty.*, 411 F.2d 586-87 (4th Cir. 1969).²

Section 1983 provides that a plaintiff may file suit against any person who, acting under color of state law, "subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws" of the United States. 42 U.S.C. § 1983. Section 1983 "is not itself a source of substantive rights, but merely provides 'a method for vindicating federal rights elsewhere conferred.'" *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (quoting *Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979)); *Wahi v. Charleston Area Med. Ctr.*, 562 F.3d 599, 615 (4th Cir. 2009).

Defendants Albright, Barbera, and Berger are Maryland state judges who plaintiff is suing for decisions made in their capacities as judges. The underlying cause of action in this case cannot be maintained because it is prohibited by the doctrine of judicial immunity. *See Forrester v. White*, 484 U.S. 219, 226-27 (1988) ("If judges were personally liable for erroneous decisions, the resulting avalanche of suits, most of them frivolous but vexatious, would provide powerful incentives for judges to avoid rendering decisions likely to provoke such suits."). The doctrine of judicial immunity shields judges from monetary claims against them in both their official and individual capacities. *Mireles v. Waco*, 502 U.S. 9, 9-10 (1991) (per curiam). Judicial immunity is an absolute immunity; it does not merely protect a defendant from assessment of damages, but also protects a judge from damages suits entirely. *Id.* at 11. An act is still judicial, and immunity

² The statute cited by Patel, 28 U.S.C. § 1651, states, in part, that "court established by Act of Congress may issue all writs necessary or appropriate in aid of *their respective jurisdictions*." 28 U.S.C. § 1651(a) (emphasis added).

applies, even if the judge commits “grave procedural errors.” *Id.* (quoting *Stump v. Sparkman*, 435 U.S. 349, 359 (1978)). Moreover, “judges of courts of superior or general jurisdiction are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly.” *Stump*, 435 U.S. at 355-56; *see Dean v. Shirer*, 547 F.2d 227, 231 (4th Cir. 1976) (stating that a judge may not be attacked for exercising judicial authority even if done improperly).

This Court is mindful of its obligation to liberally construe self-represented pleadings, such as the instant complaint. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007). In evaluating such a complaint, the factual allegations are assumed to be true. *Id.* at 93 (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007)). Nonetheless, liberal construction does not mean that this Court can ignore a clear failure in the pleading to allege facts which set forth a cognizable claim. *See Weller v. Dep’t of Soc. Servs.*, 901 F.2d 387 (4th Cir. 1990); *see also Beaudett v. Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985) (stating a district court may not “conjure up questions never squarely presented”). In making this determination, “[t]he district court need not look beyond the complaint’s allegations It must . . . hold the pro se complaint to less stringent standards than pleadings drafted by attorneys and must read the complaint liberally.” *White v. White*, 886 F.2d 721, 722-23 (4th Cir. 1989).

“[F]rivolous complaints are subject to dismissal pursuant to the court’s inherent authority, even when the plaintiff has paid the filing fee.” *Smith v. Kagan*, 616 F.App’x 90 (4th Cir. 2015); *see Chong Su Yi v. Soc. Sec. Admin.*, 554 F.App’x 247, 248 (4th Cir. 2014) (same); *Ross v. Baron*, 493 F.App’x 405, 406 (4th Cir. 2012) (same). In addition, “dismissal prior to service of process is permissible when a court lacks subject matter jurisdiction over a patently frivolous complaint.” *Smith*, 616 F.App’x at 90; *Chong Su Yi*, 554 F.App’x at 248 (same); *Ross*, 493 F.App’x at 406

(same). An example of a frivolous claim subject to dismissal is one with an “indisputably meritless legal theory” such as where “defendants are immune from suit.” *Neitzke v. Williams*, 490 U.S. 319, 327 (citing *Williams v. Goldsmith*, 701 F.2d 603 (7th Cir. 1983) (civil rights action based on alleged unconstitutional search and seizure was frivolous where all defendants were absolutely immune from suit)).

The defendants in the amended complaint are immune from suit under the doctrine of judicial immunity. Furthermore, this Court has no authority to issue a writ of mandamus requiring any action on the part of the Maryland state courts. As such, the complaint will be dismissed without prejudice.

Accordingly, it is this 26th day of October, 2021, by the United States District Court for the District of Maryland, hereby ORDERED that:

1. The complaint is DISMISSED without prejudice;
2. The Motion to Dismiss (ECF No. 5) is DENIED as MOOT;
3. The Clerk IS DIRECTED to MAIL plaintiff a copy of this Order; and
4. The Clerk IS FURTHER DIRECTED to CLOSE this case.



GEORGE J. HAZEL
UNITED STATES DISTRICT JUDGE

FILED: April 19, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-1162
(8:21-cv-02409-GJH)

NISHITH PATEL,

Plaintiff - Appellant,

v.

HONORABLE ANNE ALBRIGHT; HONORABLE MARY ELLEN BARBERA;
HONORABLE STUART BERGER,

Defendants - Appellees.

ORDER

Nishith Patel moves for injunctive relief pending appeal and for expedited consideration of his motion. Appellees have filed a response in opposition to Patel's request for injunctive relief. Upon review, we deny Patel's motion to expedite and deny the motion for injunctive relief because he has not established that he is entitled to the extraordinary relief he requests. *See League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 236 (4th Cir. 2014).

Entered at the direction of the panel: Judge Wilkinson, Judge Rushing, and Senior Judge Floyd.

For the Court

/s/ Patricia S. Connor, Clerk

APPENDIX

C

IN THE DISTRICT COURT OF MARYLAND

NISHITH PATEL

Plaintiff,

v.

ANNE ALBRIGHT

and

MARY ELLEN BARBERA

and

STUART BERGER

Defendants.

Case No: 21-cv-02409-GJH

FILED
LOGGED
ENTERED
RECEIVED

OCT 25 2021

BY AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND DEPUTY

AMENDED COMPLAINT

Nishith Patel ("Mr. Patel"), appearing *pro se*, files this Petition for Writ of Mandamus and / or Complaint to seek relief in a family law case arising in Montgomery County, Maryland (*Patel v. Patel*, 149996FL).

Parties

1. Plaintiff Mr. Patel presently resides in Massachusetts at 55 Old Belchertown Road, Ware, MA 01082. However, prior to December, 2020, for approximately 10 years, Mr. Patel was a Maryland resident.

2. Defendant Anne Albright is employed as a judge at the Montgomery County Circuit Court in Maryland. Her place of employment is 50 Maryland Avenue, Rockville, MD 20850.

3. Defendant Stuart Berger is employed as judge at the Maryland Court of Special Appeals. His place of employment is 361 Rowe Blvd., Annapolis, MD 21401.

4. Defendant Mary Ellen Barbera is employed as a judge at the Maryland Court of Appeals. Her place of employment is 361 Rowe Blvd., Annapolis, MD 21401.

Jurisdiction and Venue

5. Jurisdiction in this Court is proper pursuant to 28 U.S.C. § 1331 (federal question) and its original jurisdiction on all constitutional law matters. Furthermore, jurisdiction is proper in this Court under the All Writs Act, 28 U.S.C. § 1651. Finally, jurisdiction is proper under 42 U.S.C § 1983.

6. Venue is proper in this Court because the acts complained of herein occurred in Maryland.

Statement of Facts

7. Mr. Patel is the father of a six-year-old girl. For approximately two years after a divorce in 2018, Mr. Patel shared physical and legal custody of his daughter, and both enjoyed a loving father-daughter relationship.

8. Unfortunately, on or about April 2019, and again on June 2020, Mr. Patel was compelled to file for emergency motions for custody and/or protective orders.

9. On or about June, 2020, after denying Mr. Patel's prior attempts to obtain emergency custody (without granting a hearing, and only after granting Ms. Patel, the mother of the child, her cross-motion for emergency custody *ex parte*), the Circuit Court

in Montgomery County, Maryland held a hearing on Mr. Patel's emergency motion for custody.

10. In that hearing, Ms. Albright, the presiding judge, denied Mr. Patel's petition and instead granted mother exclusive physical and legal custody over their child. She also suspended Mr. Patel's physical access to his daughter (and the child's physical access to her father).

11. During Circuit Court proceedings, Ms. Albright made numerous errors of law and findings of fact. She also displayed an obvious bias for the mother.

12. To compound the problems, she made herself the "1F1J" (one family, one judge) of the family law case, meaning that she appointed herself the permanent judge of all family law matters between the parties *indefinitely*.

13. Ms. Albright demonstrated a complete disregard for what is in the best interests of the child. She also made clear that her distaste toward the child's father will continue.

14. For example, Ms. Albright determined prior to the hearing – before any evidence was presented and before any arguments were made – that she would separate father from daughter.

15. Ms. Albright had also determined prior to the hearing – again, before any evidence was presented or any arguments were made – that she would only permit supervised access between father and daughter.

16. Ms. Albright also assumed facts not in evidence in favor of the Defendant. For example, she discredited testimony from Mr. Patel even when it was *supported* by the opposing party in the case.

17. Among the Circuit Court's horrific rulings was her complete denial of Mr. Patel's access to his daughter (and her access to her father) except for a 1-hour virtual visitation per week.

18. The minor child's relationship with her father has been severely harmed because of Ms. Albright's decisions. Prior to the Circuit Court's ruling, the minor child enjoyed spending 2-3 days per week with her father and could depend on his judgment as he had joint legal custody (the terms of the physical and legal custody were agreed upon by the parents after considerable negotiation during the divorce proceedings).

19. Mr. Patel filed a motion requesting that Ms. Albright disqualify herself from the case. Not surprisingly, she declined to admit her bias publicly and denied Mr. Patel's motions for disqualification.

20. Mr. Patel sought appellate review of the judge's bias and sought her disqualification through the Maryland Court of Special Appeals (*Patel v. Patel, September Term, 2020*, No. 389). Mr. Patel's brief to the Court of Special Appeals included detailed evidence showing judicial bias. Nevertheless, the Court of Special Appeals declined to decide Mr. Patel's appeals on the merits. Instead, it dismissed Mr. Patel's appeals on the absurd ground that his appeal was "moot" because the judge had six-months later issued a final order.

21. Defendant Mr. Berger signed the Court of Special Appeals' order dismissing Mr. Patel's appeal.

22. Mr. Patel then sought relief from the Maryland Court of Appeals (*Patel v. Patel, September Term, 2020*, No. 493). In his Petition for Writ of Certiorari, Mr. Patel argued extensively why the Court of Special Appeals should have evaluated the judge's

behavior on the merits. Specifically, the integrity of the judicial system is at stake when an unfit judge can evade review of misconduct simply by issuing a final order. Just as important, her continued presence in the case continues to violate Mr. Patel's constitutional rights, and as described below, she *still* has refused Mr. Patel physical access to his daughter, after sixteen months.

23. The Maryland Court of Appeals declined to review Mr. Patel's appeal on the merits, stating that it was neither desirable nor in the public interest. The logical extension of the Maryland Court of Appeals' holding is that even if a trial judge utterly disregards her obligation to abide by judicial ethics, and even if she unabashedly violates Mr. Patel's constitutional rights, she may evade appellate scrutiny so long as she issues a final order.

24. Defendant Ms. Barbera signed the order denying review of Mr. Patel's writ of certiorari.

25. The Maryland Court of Appeals' holding has given Ms. Albright *carte blanche* to continue acting with utter disregard for Mr. Patel's rights and for what is in the best interests of the child. Mr. Patel has twice requested Ms. Albright to permit him to spend in-person time with his daughter, but she has denied his requests. On Mr. Patel's last motion for physical access to his daughter, Ms. Albright demonstrated her callousness toward him by stating that "it appear[ed] that the parties agree that Plaintiff's supervised virtual visitation with the minor child should continue..." despite Mr. Patel's repeated and clearly stated requests to spend time with his daughter in person.

26. That Order was entered on August 10, 2021. Mr. Patel has no avenue to appeal that Order because the Maryland Court of Special Appeals and the Maryland Court

of Appeals have already determined that judicial bias will not be examined if the judge has issued an order.

27. Moreover, by stating that it does not consider appellate review of constitutional violations and unethical judicial behavior to be “desirable or in the public interest,” the Maryland Court of Appeals has ceded its authority to do so in this case.

28. As of the date of this filing, it has been sixteen months since Mr. Patel last had physical or legal custody of his daughter. He has not been able to spend time with her in person because of the horrendous rulings by Ms. Albright and because the Maryland appellate courts’ refuse to consider Mr. Patel’s appeal on the merits.

29. Ms. Albright still remains the “1F1J” on the family law case, continues to be biased against Mr. Patel, and continues to issue orders that repeatedly deny him access to his child.

30. This Court has the authority to issue a writ of mandamus pursuant to the All Writ Acts and because it has original jurisdiction over constitutional law matters.

REQUEST FOR RELIEF

WHEREFORE, Mr. Patel respectfully requests that this Court:

- a) issue a writ of mandamus or injunctive order requiring the defendant Ms. Albright to disqualify herself from the family law case pending this litigation;
- b) issue a writ of mandamus or injunctive order vacating the Ms. Albright’s rulings in the family law case pending this litigation;
- c) declare that defendant Ms. Albright’s actions deprived Mr. Patel of his constitutionally protected rights;
- d) declare that the “1F1J” policy is unconstitutional as a matter of law;

- e) declare that the “1F1J” policy is unconstitutional as applied to this case;
- f) declare that the defendant’s actions are so biased as to be constitutionally intolerable;
- g) declare that the Maryland Court of Special Appeals deprived Mr. Patel’s constitutional rights to seek access and relief from the courts;
- h) declare that the Maryland Court of Appeals deprived Mr. Patel’s constitutional rights to seek access and relief from the courts;
- i) assess compensatory damages for emotional distress, humiliation, embarrassment, harm to his career, loss of income, and mental anguish in an amount to be proved at trial;
- j) assess punitive damages in an amount to be proved at trial;
- k) assess costs and expenses of this action, including, but not limited to, reasonable attorneys’ fees and litigation costs; and
- l) grant such other relief as the Court finds necessary and appropriate.

Dated: October 22, 2021

Respectfully submitted,



Nishith Patel
Pro Se
55 Old Belchertown Road
Ware, MA 01082

APPENDIX

D

IN THE FOURTH CIRCUIT COURT OF APPEALS

Nishith Patel,

Case No:

Plaintiff,

v.

Anne Albright, et. al.

Defendants.

EMERGENCY MOTION FOR PRELIMINARY INJUNCTIVE RELIEF

This case is before the Court of Appeals because the District Court in Greenbelt, Maryland erroneously determined that Mr. Patel's Complaint was "frivolous" and *sua sponte* dismissed his Complaint. As a consequence of the District Court's erroneous dismissal, it also failed to rule upon Mr. Patel's Emergency Motion for Preliminary Injunction, which was filed shortly after the Complaint. As such, Mr. Patel files this Emergency Motion for Injunctive Relief pursuant to Local Rule 8 (a) (1) and Local Rule 27(e).

In fact, there was nothing frivolous about Mr. Patel's Complaint, which described how a loving father was illegally separated from his daughter (and she from her father) for more than twenty (20) months by a biased judge. The written text in the Complaint (or in this motion) cannot adequately capture the anguish and pain caused by this separation, nor can it quantify the irreparable damage done to the psyches of both child and father.

This case is anything but frivolous because, in addition to the personal pain inflicted upon the father and child, critical tenets of the United States Constitution have been severely

undermined, including the constitutional right for a parent to raise his child, as well as the constitutional right to due process.

Mr. Patel files this Emergency Motion for Injunctive Relief so that this Court of Appeals can expeditiously restore constitutional order to the Maryland courts, which has run amuck in this case. Mr. Patel further requests that this Court remedy a terrible injustice inflicted upon him and his child by permitting their reunification after an unjustifiably long and cruel separation by a biased and potentially corrupt state court judge.

I. PROCEDURAL HISTORY

This case began as a family law matter in the Montgomery County Circuit Court in Maryland (*Patel v. Patel*, 149996FL). The minor child central to this case was five years old when the present dispute between the parties arose. At that time, pursuant to a divorce agreement, the minor child spent approximately 60% of her time with her mother and 40% of her time with her father. Not only had the parents agreed to the “60/40” shared custody schedule, but they also shared legal custody, with father retaining the tiebreaker for educational decisions and mother retaining the tiebreaker for health decisions. The parents and the minor child then adjusted to the new living arrangements, and the minor child had an undisputedly positive and fruitful relationship with her father. For approximately two years, the minor child mostly flourished in the co-parenting relationship between her father and mother.

a. State Trial Court

Unfortunately, on three occasions, the minor child exhibited markings of physical abuse when she arrived into Mr. Patel’s custody. On the occasion leading to the present dispute, she arrived with scratch marks all over her chest and stomach area. Mr. Patel sought the assistance of

the police to investigate – however, for unknown reasons, they did not investigate the reported abuse. Mr. Patel also sought the assistance of Child Protective Services to investigate the reported abuse, but they did not take any action, either. Mr. Patel then applied for emergency custody with the Montgomery County Circuit Court, so that the child would not be forced to return to the home in which she was physically abused. However, the petitions were denied and instead, the Circuit Court directed Mr. Patel to call Child Protective Services (even though he already had, and they had already failed to do investigate). Finally, after several filings to obtain emergency custody, and only after granting the defendant mother her own motion for emergency custody, the Circuit Court held a hearing on Mr. Patel’s emergency motion.

In that hearing, Defendant Ms. Albright,¹ the presiding judge, denied Mr. Patel’s petition and instead granted mother sole legal and physical custody. *See* Ex. 1. The result is that the minor child was returned to the very house in which Mr. Patel had alleged she had suffered physical abuse. To make matters worse, Ms. Albright also suspended Mr. Patel’s access to his daughter (and minor child’s access to her father). To date, Ms. Albright has provided no justification – nor can she – for denying the minor child a wonderful relationship she has with her father, and for denying Mr. Patel his relationship with his daughter.

The horror story unfolded further when Ms. Albright anointed herself the permanent judge of the family law case under a local (and unconstitutional) one family, one judge (“1F1J”) policy.²

¹ Mr. Patel refers to Defendant as “Ms. Albright,” instead of “Judge Albright” for several reasons. First, as a Defendant in a case in which her very integrity and partiality as a judge is at issue, she should not benefit from the privileged status and presumption of being referred to as ‘judge’ in the pleadings – especially because other sitting judges are tasked with evaluating her. Second, any person who has suffered the loss of a beautiful relationship with their child for one and a half years because of the atrocious and unconstitutional conduct of a judge would be hard-pressed to continue referring them as a “judge,” as Mr. Patel does here. Finally, under the American legal tenet that no person is above the law (or that all persons are equal in the eyes of the law), Defendant should be referred to by her salutary title just like every other person in a legal proceeding – theoretically, she should not suffer any unfair prejudice by being called “Ms. Albright.”

² Mr. Patel is unable to find the text of this policy, but several news articles indicate that this policy was enacted in 2016 and affects family law cases in Montgomery County, Maryland.

She did this *sua sponte*. Under the “1F1J” policy, Ms. Albright has total, autocratic power to remain biased against Mr. Patel for perpetuity, and she has relished in that role. Her complete disregard for what is in the best interests of the minor child has also continued unabated, and twenty months later, father and child remain separated.

b. Maryland Court of Special Appeals

Shortly after Ms. Albright’s disastrous and unconstitutional order separating father and child, Mr. Patel filed an emergency interlocutory appeal to the Maryland Court of Special Appeals, (*Patel v. Patel*, September Term 2020, No. 389) as permitted by the Maryland R. Rev. Ct. App. & Spec. App. 8-207(a)(1)(B), and Md. Code Ann., Cts. & Jud. Proc. § 12-303(3)(x).³ Mr. Patel’s appeal requested, *inter alia*, that a) Ms. Albright’s orders be overturned and b) she be disqualified from presiding over future proceedings in the family law matter.⁴ *See* Ex. 2.

Mr. Patel’s brief was over twenty pages long and cited the transcript of the hearing to show – in excruciating detail – the improper and biased conduct displayed by Ms. Albright. *Id.* Of critical importance, the brief detailed how Ms. Albright had decided prior to the hearing – before any evidence was presented or arguments were made – that she would separate Mr. Patel from his child, and further, she would only permit virtual and supervised access between the two. *Id.* at 11-14. In other words, even though Mr. Patel was the moving party requesting emergency custody of

³ Per Rule 8-207, an expedited appeal is permitted “from a judgment granting, denying, or establishing custody of or visitation with a minor child or from an interlocutory order taken pursuant to Code, Courts Article, § 12-303(3)(x),” which in turn provides that a party may appeal an interlocutory order entered by the circuit court which deprives a parent, grandparent, or natural guardian of the care and custody of his child, or changing the terms of such an order.

⁴ A Maryland judge “shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned ...” MD Rules Judges 18-102.11(a). The impartiality of a judge may be questioned when “the judicial appointee has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding” MD Rules Judges 18-102.11(a)(1). Similarly, “A judge shall uphold and apply the law and shall perform all duties of judicial office impartially and fairly.” MD Rules Judges 18-102.2(a). Further, “impartiality under the Rules means the absence of bias or prejudice in favor of, or against, particular classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge.” *Karanikas v. Cartwright*, 209 Md.App. 571, 61 A.3d 69 (2013). *See also* MD Rules Judges 18-102.2(a), Cmt. 1 (“To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.”)

his minor child because she displayed marks of physical abuse when returning from her mother's custody, Ms. Albright had determined before the hearing that she would provide exactly the opposite relief sought by Mr. Patel.

Second, throughout the hearing, Ms. Albright assumed facts not in evidence and all her inferences were favorable to the Defendant, Ms. Patel. *Id.* at 14-17. On several instances, Ms. Albright even proffered new arguments and alternative explanations on behalf of the Defendant, and on one instance, discredited Mr. Patel's testimony (that the police and child protective services failed to investigate the child abuse) even though it was corroborated by the defendant, Ms. Patel.⁵ *Id.*

Finally, Mr. Patel argued in his brief that Ms. Albright's bias was demonstrated by the ruling itself – her disdain for Mr. Patel was so great that she punished a completely innocent five-year-old girl by prohibiting her from spending time with her father, with whom she was spending approximately 40% of her time, simply because she had confided in him that she had been hurt while in her mother's custody.

In contrast to Mr. Patel's detailed brief, Defendant filed a two-page Motion to Dismiss advancing the (illogical) argument that because the (biased) judge had later issued a "final order" – approximately five months after Mr. Patel had filed his Notice of Appeal at the Maryland Court of Special Appeals – that Mr. Patel's appeal was now "moot." *See* Exs. 3 and 4. Mr. Patel filed an Opposition to the Motion to Dismiss, highlighting the obvious fact that his appeal sought to disqualify a biased judge, and absent supervening action, she would remain the "One Family One

⁵ During the hearing, Ms. Patel testified that neither the police nor child protective services had contacted her or her family members about the reported child abuse. At the conclusion of the hearing, Ms. Albright stated: "...Father says he called CPS. He says they wouldn't investigate. That's where I found his testimony to be less than credible. CPS's job is to investigate. I am inferring that what happened is that, from what he says, is that they did not do what he wanted them to do, but that doesn't mean they didn't investigate or do something."

Judge” in the case, her rulings would continue to stand, and therefore the appeal could not possibly be moot. *See* Ex. 5.

On January 4, 2021, the Court of Special Appeals dismissed Mr. Patel’s appeal as “moot” in a one-line order. *See* Ex. 6. Mr. Patel filed a Motion to Reconsider, urging the Court of Special Appeals to consider the illogical result of deeming an ongoing controversy as ‘moot,’ as well as the public policy implications of permitting a biased judge to remain in the family law case. *See* Ex. 7. The Court of Special Appeals denied Petitioner’s Motion to Reconsider and issued a mandate on February 12, 2021.

c. Maryland Court of Appeals

Mr. Patel then sought relief from the Maryland Court of Appeals (*Patel v. Patel*, September Term, 2020, No. 493). In his Petition for Writ of Certiorari, Mr. Patel argued that it was impossible for this appeal to be ‘moot,’ as the Court of Special Appeals held, because the issue and controversy *was the judge*, whose bias clouded the whole case, including the orders she issued. *See* Ex. 8. She continued to preside over this case. Her orders still stood. Therefore, the controversy continued to exist despite the ‘final’ order of Ms. Albright (which itself reeked of bias and corruption), and will continue to exist as long as she remains the “1F1J” and her orders remain in effect. *Id.*

Mr. Patel also posited that the Court of Special Appeals’ holding compromises the integrity of the judicial system because a biased and otherwise unfit judge can evade review of misconduct simply by issuing a final order. *Id.* This ‘crack’ in the judicial system not only undermines the jurisdiction of the appellate courts, whose role, in part, is to provide guidance and instruction to the lower courts, but it also sets a dangerous precedent whereby lower court judges need only reach the point of issuing a ‘final’ order to cover up all their prior transgressions. Such a loophole cannot

coexist with either the U.S. Constitution or fundamental concepts underpinning the legal system, including the rule of law and judicial impartiality and fairness.

Defying common sense, the Maryland Court of Appeals declined to review Mr. Patel's appeal on the merits, stating that it was neither desirable nor in the public interest. *See* Ex. 9.

d. Return to Maryland Circuit Court

Unsuccessful in the Maryland appellate courts, Mr. Patel hoped Ms. Albright's conscience might have revived in the intervening months and she would permit father and daughter to reunite. Mr. Patel twice requested Ms. Albright to be permitted to spend in-person time with his daughter. Inexplicably (literally, Ms. Albright did not explain her decisions), Ms. Albright denied his requests. On both occasions, Ms. Albright denied his motions for in-person access without a hearing. *See* Exs. 10 and 11. On Mr. Patel's last motion for in-person access to his daughter, Ms. Albright demonstrated her callousness toward him by stating that "it appear[ed] that the parties agree that Plaintiff's supervised virtual visitation with the minor child should continue..." despite Mr. Patel's repeated and clearly stated requests to spend time with his daughter in-person. That Order was entered on August 10, 2021. *See* Ex. 11.

Because the Maryland Court of Special Appeals and the Maryland Court of Appeals already determined that offensive judicial behavior and bias will go unexamined if the judge has issued a 'final' order, Mr. Patel could not seek relief in those courts. Moreover, by stating that it does not consider appellate review of constitutional violations of unethical judges to be "desirable or in the public interest," it appears that the Maryland Court of Appeals ceded its authority to do so.

e. Federal District Court

Mr. Patel then filed a Complaint against in the Federal District Court in Greenbelt, Maryland on September 20, 2021. It had been approximately sixteen (16) months since Ms. Albright had maliciously and unjustifiably separated Mr. Patel from his child when the federal action commenced. Mr. Patel later filed an Amended Complaint to include counts against the signing judge of the Maryland Court of Special Appeals and also the Maryland Court of Appeals. *See Ex. 12.*

Importantly, Mr. Patel's Amended Complaint primarily sought declaratory and injunctive relief. In the segment titled "Requested Relief," Mr. Patel identified, *inter alia*, the following requests for relief, all of which are either declaratory or injunctive:

REQUEST FOR RELIEF

WHEREFORE, Mr. Patel respectfully requests that this Court:

- a) issue a writ of mandamus or injunctive order requiring the defendant Ms. Albright to disqualify herself from the family law case pending this litigation;
- b) issue a writ of mandamus or injunctive order vacating the [sic] Ms. Albright's rulings in the family law case pending this litigation;
- c) declare that defendant Ms. Albright's actions deprived Mr. Patel of his constitutionally protected rights;
- d) declare that the "1F1J" policy is unconstitutional as a matter of law;
- e) declare that the "1F1J" policy is unconstitutional as applied to this case;
- f) declare that the defendant's actions are so biased as to be constitutionally intolerable;
- g) declare that the Maryland Court of Special Appeals deprived Mr. Patel's constitutional rights to seek access and relief from the courts;
- h) declare that the Maryland Court of Appeals deprived Mr. Patel's constitutional rights to seek access and relief from the courts; ...

(emphasis supplied).

Along with filing the Complaint, Mr. Patel also filed an Emergency Motion for Preliminary Injunction. Subsequently, Mr. Patel called several times and twice emailed the District Court to request a hearing on his Emergency Motion for Preliminary Injunction, but the Court did not grant his request. Rather, on October 26, 2021, the District Court dismissed Mr. Patel's Complaint *sua*

sponte (before the Defendant's responsive pleading was filed). *See* Ex. 12. Further, the District Court did not even rule upon Mr. Patel's Emergency Motion for Preliminary Injunction, meaning that Mr. Patel's request to be reunited with his child went unaddressed yet again, but this time in federal court.

The District Court dismissed Mr. Patel's Amended Complaint under the theory that judges are immune from monetary actions proceeding under 42 U.S.C. §1983. *See* Ex. 13. While this may be true under current law, it is largely irrelevant to this case – as identified above, Mr. Patel's Complaint pleaded eight (8) claims for declaratory and injunctive relief. This is because Mr. Patel's main goal, ever since this saga began approximately twenty (20) months ago, is to spend time with his daughter in person again. Nevertheless, as if the federal District Court was infected with the same cowardice of the Maryland appellate courts, it turned a blind eye to Mr. Patel's actual pleas for relief – most likely because it wanted to avoid addressing the facts showing Ms. Albright's unconstitutional conduct and her cruel orders separating Mr. Patel and his child.

As explained below, the District Court's dismissal of Mr. Patel's complaint is clearly erroneous and unsupported by established law. Mr. Patel respectfully requests this Court reverse the District Court and grant his Emergency Motion for Preliminary Injunction so that a biased and potentially corrupt judge is disqualified from presiding over this family law case, her orders are vacated, and Mr. Patel and his daughter are reunited.

II. ARGUMENT

This Court should grant Mr. Patel's motion for preliminary injunction on the ground “[1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an

injunction is in the public interest." *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008).

The preliminary injunction Mr. Patel requests would remedy two serious deprivations of constitutional rights caused by the lower courts. The first is Mr. Patel's constitutional right to raise his child. The second is Mr. Patel's constitutional right to fair and impartial process. As described in greater detail below, both of these constitutional deprivations are *ongoing* and require immediate remedial action from a higher court. Specifically, Mr. Patel requests that Defendant Ms. Albright be immediately disqualified as judge from the Maryland family law case *Patel v. Patel*, 149996FL, that her orders be vacated, and that Mr. Patel be reunited with his daughter.

A. This Court Should Grant Mr. Patel's Preliminary Injunction Because He Will Succeed On The Merits

a. Ms. Albright Deprived Mr. Patel of His Fundamental Constitutional Right to Raise His Child

Ms. Albright has separated Mr. Patel from his daughter for (now) twenty (20) months. The United States Supreme Court has declared that the right for parents to raise their children is one of the oldest fundamental rights granted by the due process clause of the Fourteenth Amendment. For example, in *Meyer v. Nebraska*, 262 U.S. 390 (1923), the Supreme Court stated that the liberty interest protected by the Fourteenth Amendment "denotes not merely freedom from bodily restraint, but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men" (emphasis supplied.) In *Prince v. Massachusetts*, 321 U. S. 158 (1944), the Supreme Court again confirmed that there is a constitutional dimension to the right of parents to direct the

upbringing of their children, stating that “[it] is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.” *Id.* at 166. More recently, the Supreme Court stated that “liberty interest...the interest of parents in the care, custody, and control of their children — is perhaps the oldest of the fundamental liberty interests recognized by this [Supreme] Court...It is cardinal with us that the custody, care and nurture of the child reside first in the parents...” *Troxel v. Granville*, 530 U.S. 57 (2000). (emphasis supplied).

Furthermore, there is a presumption that fit parents act in their children's best interests, *Troxel* at 58 citing *Parham v. J. R.*, 442 U. S. 584, 602. Therefore, “the Due Process Clause does not permit a State to infringe on the fundamental right of parents to make child rearing decisions simply because a state judge believes a ‘better’ decision could be made.” *Troxel* at 73.

The Fourth Circuit Court of Appeals and other circuits have also recognized the constitutional right for a parent to raise his child. *Jordan v. Jackson*, 15 F.3d 333, 342 (4th Cir. 1994) (“The state’s removal of a child from his parents indisputably constitutes an interference with a liberty interest” sufficient to trigger constitutional scrutiny.); *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977) (“[T]he most essential and basic aspect of familial privacy [is] the right of the family to remain together without the coercive interference of the awesome power of the state”).

It is indisputable that Mr. Patel has been deprived of his constitutional right to the care, custody and nurture of his child. Prior to Ms. Albright’s biased orders, Mr. Patel enjoyed spending two to three days per week with his child, pursuant to a shared “60/40” custody arrangement that the parents of the minor child *agreed to* because of their mutual understanding that the child should maintain strong bonds with both parents. Furthermore, not only had the parents agreed to the

“60/40” shared custody schedule, but they also had agreed to share legal custody, with father retaining the tiebreaker for educational decisions and mother retaining the tiebreaker for health decisions.

When the minor child stayed with Mr. Patel, they enjoyed many special and unique activities that were instrumental to the child’s growth, such as going on hiking trips, going to the movies, watching tv shows together, reading together, and dancing to their favorite songs. Father taught her how to ride a bike and they learned how to ice skate together – well, at least she learned how to ice skate. Because of Ms. Albright’s horrendous order, Mr. Patel and his daughter can no longer do all the activities that they previously did together (and other parents do with their children). They cannot spend time cooking and eating together, they cannot visit family and friends together, they cannot attend community or religious events together. They cannot hug each other. Mr. Patel cannot tuck his daughter into bed, read her a bedtime story, or kiss her goodnight. These are critical components of their relationship that not only Mr. Patel misses, but his daughter greatly misses also.⁶

Ms. Albright wrecked it all. She separated Mr. Patel from his daughter and prohibited them from spending time with each other, except for a 1-hour per week supervised visitation. Ms. Albright also denied Mr. Patel legal custody over this daughter. All of it was totally unjustified. By any measure, it cannot be disputed that Ms. Albright deprived Mr. Patel of his constitutional right to care for and nurture his child. This constitutional deprivation has been ongoing for twenty (20) months, and to date, none of Ms. Albright’s orders provide any rationale for the prolonged separation (and indefinite deprivation of constitutional rights), never mind a compelling reason.

⁶ The Minor Child’s repeated requests to meet with her father because she misses him have been documented during the supervised visits.

See Exs. 1, 4, 10 and 11. As such, Mr. Patel will prevail on the merits during this litigation that Ms. Albright has unjustifiably deprived him of his constitutional right to raise his child.

b. Mr. Patel Has Been Deprived Of His Constitutional Right To Due Process

Mr. Patel's due process rights have been violated (and continue to be violated) because Ms. Albright is biased against him, and she continues to make rulings that clearly demonstrate that bias. See Am. Compl. at ¶ 13-17 and ¶ 25-28. The United States Supreme Court applies an objective standard for assessing whether the Due Process Clause has been violated by a judge. In *Rippo v. Baker*, 137 S. Ct. 905 (2017), the Supreme Court stated, "[r]ecusal is required when, objectively speaking, 'the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.'" *Rippo*, 137 S. Ct. at 907 (quoting *Withrow v. Larkin*, 421 U.S. 35, 47 (1975)).

Critically, in evaluating that risk of bias, courts must ask "not whether a judge harbors an actual, subjective bias, but instead whether, as an objective matter, 'the average judge in his position is likely to be neutral, or whether there is an unconstitutional potential for bias.'" *Williams v. Pennsylvania*, 136 S. Ct. 1899, 1905 (2016). Accordingly, the Supreme Court has explained that "the Due Process Clause may sometimes demand recusal even when a judge 'ha[s] no actual bias.'" *Rippo*, 137 S. Ct. at 907 (alteration in original) (quoting *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 825 (1986)).

As applied to the facts to this case, the conclusion that a biased judge presides over Mr. Patel's family matter case is inescapable. This is especially true because the District Court dismissed Mr. Patel's Complaint *sua sponte*, and this Court must accept Mr. Patel's factual allegations as true (and Mr. Patel submits that the evidence will show that they are factually true). Thus, this Court must accept the following facts, as alleged in his Complaint, as true:

- During Circuit Court proceedings, Ms. Albright made numerous errors of law and findings of fact. She also displayed an obvious bias for the mother. *Am. Compl.* at ¶ 11.
- Ms. Albright demonstrated a complete disregard for what is in the best interests of the child. *Am. Compl.* at ¶ 13.
- Ms. Albright determined prior to the hearing – before any evidence was presented and before any arguments were made – that she would separate father from daughter. *Am. Compl.* at ¶ 14.
- Ms. Albright had also determined prior to the hearing – again, before any evidence was presented or any arguments were made – that she would only permit supervised access between father and daughter. *Am. Compl.* at ¶ 15.
- Ms. Albright also assumed facts not in evidence in favor of the Defendant. For example, she discredited testimony from Mr. Patel even when it was *supported* by the opposing party in the case. *Am. Compl.* at ¶ 16.
- Ms. Albright’s bias is demonstrated by her horrific rulings, including her complete denial of Mr. Patel’s access to his daughter (and her access to her father) except for a 1-hour virtual visitation per week. *Am. Compl.* at ¶ 17.
- To compound the problems, she made herself the “1F1J” (one family, one judge) of the family law case, meaning that she appointed herself the permanent judge of all family law matters between the parties *indefinitely*. *Am. Compl.* at ¶ 12.
- The Maryland Court of Appeals’ holding has given Ms. Albright *carte blanche* to continue acting with utter disregard for Mr. Patel’s rights and for what is in the best interests of the child. Mr. Patel has twice requested Ms. Albright to permit him to

spend in-person time with his daughter, but she has denied his requests. On Mr. Patel's last motion for physical access to his daughter, Ms. Albright demonstrated her callousness toward him by stating that "it appear[ed] that the parties agree that Plaintiff's supervised virtual visitation with the minor child should continue..." despite Mr. Patel's repeated and clearly stated requests to spend time with his daughter in person. *Am. Compl.* at ¶ 25.

Not only did Ms. Albright display an outright bias against Mr. Patel in the initial Circuit Court proceedings (causing Mr. Patel to file his appeal to the Maryland Court of Special Appeals) but she continues to do so at the present moment. She has twice summarily denied Mr. Patel's motions for physical access to his daughter (the latest entered on August 10, 2020). On both occasions, she denied his requests for access to his daughter without a hearing. *See* Exs. 10 and 11. Ms. Albright made these disastrous rulings even though she was presented with evidence that not only did Mr. Patel seek to be reunited with his daughter, but even Mr. Patel's daughter was asking her father to "try harder" for him to spend time with her. *See* Ex. 14.

Furthermore, Mr. Patel was deprived of his constitutional right to appellate review because neither the Court of Special Appeals nor the Court of Appeals determined Mr. Patel's appeals on the merits. Unfortunately, rather than making the important decision on whether the judge was indeed biased, the Maryland appellate courts dismissed Mr. Patel's appeal on the absurd reasoning that it was 'moot' because Ms. Albright later issued a final order. This result is illogical, even to the most casual citizen. A judge's bias and behavior cannot go unexcused simply because at some later point she issued another order. This result sets an especially dangerous precedent here because the same biased judge continues to preside in the family law matter as the self-anointed "1F1J".

By failing to decide Mr. Patel's appeals on the merits, both the intermediate and highest appellate courts in Maryland have undermined their own authority as an arbiter of the lower courts. More importantly, for Mr. Patel, their actions have denied him his due process rights under the United States Constitution.

c. Mr. Patel Will Prevail On The Merits Of The Litigation Because The District Court Improperly Dismissed His Complaint

The District Court will be reversed on appeal because it outright failed to address the requests for the relief sought by Mr. Patel. Specifically, Mr. Patel requested that the District Court a) require Ms. Albright to disqualify herself pending this litigation; b) vacate Ms. Albright's orders in the family law case; c) declare that Ms. Albright deprived Mr. Patel of his constitutionally protected rights; d) declare that the "1F1J" policy is unconstitutional as a matter of law; e) declare that the "1F1J" policy is unconstitutional as applied to this case; f) declare that the defendants' actions are so biased as to be constitutionally intolerable; g) declare that the Maryland Court of Special Appeals deprived Mr. Patel's constitutional rights to seek access and relief from the courts; h) declare that the Maryland Court of Appeals deprived Mr. Patel's constitutional rights to seek access and relief from the courts.

None of the requests for relief seek monetary relief. Therefore, the District Court's justification for dismissing Mr. Patel's complaint – that judicial immunity is afforded to judges against claims for monetary relief – does not even apply, and therefore the District Court's ruling is clearly erroneous. Mr. Patel does not understand how the District Court failed to understand that the crux of his complaint did not even seek monetary relief. Again, Mr. Patel's primary requests for relief are declaratory and/or injunctive, because his chief concern, as has been the case from the very beginning, is to be reunited with his child. Because of the District Court's blatant errors, Mr. Patel will prevail on the merits of the underlying litigation with respect to its dismissal.

B. Plaintiff (and the Minor Child) Will Suffer Irreparable Harm In The Absence of Preliminary Relief

Mr. Patel has already been denied 20 precious months of spending time with his daughter. He has missed so many landmarks during this time, including her first day at kindergarten, her sixth and seventh birthdays, and holidays such as Thanksgiving and the 4th of July. They have not been able to enjoy all the activities they used to do together such as hiking, cooking, ice skating, bike riding, and playing soccer. The prolonged absence has been a horrendous experience for Mr. Patel, especially considering the circumstances in which he was separated, when he was trying to prevent his daughter from being harmed. His relationship with his daughter has already suffered tremendous damage, and the continued separation only worsens the bond on a daily basis.

Further, Mr. Patel has been mired in a prolonged battle in the Maryland Courts trying to remove a biased judge. Mr. Patel has become despondent with even trying to obtain relief in Maryland state courts because the “1F1J” policy remains in place, and a biased autocratic judge continues to preside over his relationship with his daughter. Neither the Maryland Court of Special Appeals nor the Maryland Court of Appeals decided his appeal on the merits, which has also caused tremendous grief to Mr. Patel, because the reasoning provided by the Maryland appellate courts (or lack thereof) is completely illogical, and his faith in the judicial system has reached the point of near exhaustion.

In other words, irreparable harm is an ongoing fact in Mr. Patel’s life. Every day that passes without him being permitted to spend time with his child is one that can never be recovered. The last time they spent time together in-person was when she was five years old – she is now seven. Every day that he is denied justice as a direct result of judicial bias and appellate failure undermines the due process clause of the United States Constitution and the liberty interest afforded to parents

under the Fourteenth Amendment. It is therefore critically important that preliminary relief be afforded to Mr. Patel pending the litigation.

C. The Balance of Equities Are in Plaintiff's Favor

Perhaps the worst outcome of the biased trial court judge's horrific ruling is that a completely innocent third party – a five-year-old girl was suddenly deprived of a wonderful relationship that she had with her father. That sudden deprivation was shocking to her at the time it happened, and the prolonged separation has taken a toll on her (as well as her father). Tragically, the lesson taught to the minor child is that talking about the abuse inflicted upon her will only result in her being separated from the very person in whom she confided and was trying to protect her.

The equitable result would be to reunite a parent with his child, especially because there are no justifiable reasons for the continued separation. It is beyond Mr. Patel's understanding why this result of separation still stands, despite Mr. Patel's extensive efforts for reunification, and despite the child's desire to be reunited with her father. *See* Ex. 14. The only explanation is that there is a biased judge in the case, who is motivated by some ulterior motive to punish Mr. Patel and his daughter, and there is a cover up by the Maryland appellate courts for the judge.

While Mr. Patel and his daughter would benefit greatly from being reunited, there are no drawbacks to their reunion. It is again worth repeating that the minor child *also* greatly misses spending time with her father, and the equitable result would be to permit her to do so again.

Further, having a biased judge removed from the family law case is another equitable result because the judicial system is dependent upon fair and neutral judges. Her continued presence violates Mr. Patel's and his daughter's constitutional rights and their ability to have a relationship. Moreover, very little is lost by having another (unbiased) judge take the current judge's place.

Even the opposing party, *theoretically*, would have little to lose by having another judge replace the current one.

Finally, preliminary relief is equitable here because “the burden of litigating a domestic relations proceeding can itself be so disruptive of the parent-child relationship that the constitutional right of a custodial parent to make certain basic determinations for the child's welfare becomes implicated.” *Troxel v. Granville*, 530 U.S. at 75. In fact, the litigation over the last 20 months has already cost Mr. Patel dearly, and he rues ever calling the police and Child Protective Services and seeking the assistance of the Courts when he saw scratch marks all over his child’s torso.⁷ He obviously miscalculated that trying to protect his daughter would lead, inexplicably, to a prolonged separation of the relationship he most cherished.

D. This Court Should Grant the Requested Injunction Because It Is In The Public Interest

This Court should grant Mr. Patel’s Emergency Motion for Preliminary Injunction because gross violations of constitutional rights should not be permissible in our country and a corrupt and biased judiciary is incompatible with the Constitution.

Specifically, an injunction is in the public interest because the integrity of the judicial system is at stake in this case. Public policy required the Maryland Court of Special Appeals to review the misconduct and partiality of the Circuit Court judge. The Court of Special Appeals abused its discretion because it failed to consider the impact a biased judge would have on the life of Mr. Patel and, most importantly in this case, his daughter. Further, the logical extension of the Maryland Court of Appeals’ refusal to grant Mr. Patel his petition for certiorari is that even if a trial judge utterly violates judicial ethics, and even if she unabashedly violates a party’s constitutional rights, she may evade appellate scrutiny so long as she issues a final order. This

⁷ This was the third time that the minor child reported physical abuse to her father.

result is offensive to the United States Constitution and undermines the integrity of the judicial system.

If a United States court has the discretion to save the integrity of the judicial system, it should do so. Because the Maryland appellate courts failed to provide Mr. Patel an opportunity to appeal this federal Court has the duty to preserve Mr. Patel's constitutional rights.

The Supreme Court has articulated strong public policy reasons supporting the constitutional right to have fair and neutral judges. The Due Process Clause's objective recusal standard preserves the "'vital state interest' in safeguarding 'public confidence in the fairness and integrity of the nation's elected judges.'" *Williams-Yulee v. Florida Bar*, 135 S. Ct. 1656, 1666 (2015) (quoting *Caperton*, 556 U.S. at 889). The perception of a biased tribunal can erode public confidence in the judiciary as a whole. See *Williams*, 136 S. Ct. at 1909

Finally, and most importantly from Mr. Patel's personal perspective, an injunction is in the public interest because the relationship between a parent and child is one of the strongest interests protected by law. *Lassiter v. Dept. of Soc. Services of Durham County, N.C.*, 452 U.S. 18, (1981)) (stating it is "'plain beyond the need for multiple citation' that a natural parent's 'desire for and right to the companionship, care, custody, and management of his or her children' is an interest far more precious than any property right.") (internal quotation marks omitted). *Santosky v. Kramer*, 455 U.S. 745, 753 (1982). In this case, a biased judge forcibly separated a daughter from her loving father, who had previously spent approximately 40% of their time together. It is now over twenty (20) months since father and daughter were separated. This Court has the power to remedy a terrible injustice committed upon Mr. Patel and his daughter, and granting them Mr. Patel's requested preliminary injunction would make them both very happy. Their happiness is also in the public interest.

CONCLUSION AND REQUESTED INJUNCTION

The injunctive relief sought by Mr. Patel's Complaint would immediately remedy the potential that the very same biased judge who has already caused so much harm will not continue to cause constitutional and other harm by presiding over future proceedings in the family law matter (during the pendency of this litigation). The injunctive relief sought by Mr. Patel would help preserve the integrity of the judicial process and the sanctity of the United States Constitution.

Not only is this the morally and legally correct result, but also the constitutional one. At a later stage Mr. Patel seeks to make a bona-fide argument that monetary damages *should* be available for parties deprived of their constitutional rights by a judge under Section 1983, especially in situations where, as here, that judge has acted *maliciously* and with *utter disregard* for the rights of the parties. Mr. Patel believes that there is strong legal and constitutional basis to advance the law to align itself better to American legal tenets such as 'no person is above the law' or 'all people are equal in the eyes of the law.' Mr. Patel will argue that doing so will deter judges against gross miscarriages of justice resulting from despicable, biased, or corrupt judicial behavior.

Finally, Mr. Patel urges this Court to consider that at its very essence, the relief Mr. Patel seeks is to spend in-person time with his daughter again. It is an abject failure of the legal system that despite it having been 20 months, and despite requesting relief from multiple courts, Mr. Patel and his daughter remain separated for absolutely no reason. It has been a *very long time*, and both father and daughter are losing precious time from each other that they can never recapture. The reunification of a father and a minor child – both of whom love each other very much and cannot wait to meet again – is in this Court's hands. The reunification will happen when this Court asserts the courage to protect Mr. Patel's constitutional rights. The reunification will happen when this

Court declares that Ms. Albright's behavior was unconstitutionally biased, that she remains unconstitutionally biased, and that her continued presence on the family law case will continue to deprive Mr. Patel of his constitutional rights.

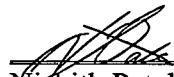
At this juncture, Mr. Patel requests from the Court is an opportunity to show during a preliminary injunction hearing that it would be constitutionally intolerable for Ms. Albright to continue presiding as the "1F1J" over his family law matter case, and that her prior orders should be vacated pending this litigation, and that he be reunited with his daughter.

For the foregoing reasons, Mr. Patel respectfully requests that this Court issue an injunction requiring:

- a) Ms. Albright be immediately disqualified from presiding over the Maryland family law case *Patel v. Patel*, 149996FL.
- b) Ms. Albright's orders be vacated pending this litigation.
- c) That Mr. Patel be reunited with his daughter as soon as practicable.

Respectfully submitted,

Dated: February 18, 2022



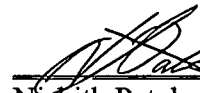
Nishith Patel
Pro Se
9841 Washingtonian Blvd.
Ste. 200
Gaithersburg, MD 20874
Nishp2004@gmail.com

(240) 380-8732

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE I HEREBY CERTIFY that on the date below, a copy of the foregoing document was served on Anne Albright, 50 Maryland Ave., Rockville, MD 20850 and/or via CM/ECF.

Dated: February 18, 2022



Nishith Patel

Pro Se

9841 Washingtonian Blvd.

Ste. 200

Gaithersburg, MD 20874

AFFIDAVIT OF NISHITH PATEL

I, the undersigned, declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: February 18, 2022



Nishith Patel

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

NISHITH PATEL, :
Plaintiff, :
vs. : Case Number: 149996-FL
KRISHNA PATEL, :
Defendant. :

THIRD EMERGENCY ORDER

(Granting Temporary Emergency Custody to Defendant/Mother)

A remote hearing (via video) having been held on June 15, 2020 to consider Plaintiff's Amended Emergency Motion for Custody and Motion for Reconsideration (DE #55 and DE #56) and further consider Defendant's Verified Family Law Article Section 9-105 Emergency Petition to Modify Custody Order, or in the Alternative, Emergency Petition for Contempt and Enforcement of Custody Order (DE #48), testimony having been taken and evidenced received, and it appearing presently that an emergency continues to exist, and the for the reasons stated on June 15, 2020, it is this 16th day of June, 2020 by the Circuit Court for Montgomery County, Maryland, hereby

ORDERED, that to the extent that it seeks emergency relief, Defendant's Verified Family Law Article Section 9-105 Emergency Petition to Modify Custody Order, or in the Alternative, Emergency Petition for Contempt and Enforcement of Custody Order (DE #48) be and is hereby GRANTED; and it is further

ENTERED

JUN 17 2020

Clerk of the Circuit Court
Montgomery County, Md.

ORDERED, that to the extent that they seek emergency relief, Plaintiff's Amended Emergency Motion for Custody and Motion for Reconsideration (DE #55 and DE #56) be and are hereby DENIED; and it is further

ORDERED, that all remaining requests for relief in Defendant's Verified Family Law Article Section 9-105 Emergency Petition to Modify Custody Order, or in the Alternative, Emergency Petition for Contempt and Enforcement of Custody Order (DE #48) and Plaintiff's Amended Emergency Motion for Custody and Motion for Reconsideration (DE #55 and DE #56) be and are hereby DEFERRED; and it is further

ORDERED, that this Order supersedes both the "Emergency Order" entered herein at DE #53 on June 11, 2020 and the "Second Emergency Order" entered herein at DE #60 on June 12, 2020; and it is further

ORDERED, that Temporary Emergency Custody (physical and legal) of the parties' minor child, [REDACTED] Patel, born in [REDACTED] 2015 ("Minor Child") be and is hereby awarded to the Defendant/Mother, Krishna Patel; and it is further

ORDERED, that Plaintiff/Father Nishith Patel's custodial time with the Minor Child, as established in the June 25, 2018 Judgment of Absolute Divorce (DE #38), including residential custodial time, holidays, vacations/breaks, and Summer, be and is hereby suspended, except as to supervised access provided below; and it is further

ENTERED

JUN 17 2020

Clerk of the Circuit Court
Montgomery County, Md.

2

App.042

USCA4 Appeal. 22-1102

Doc. 4-2

FILED. 02/10/2022

Fig. 2 of 130

Initial Pages (20 of 130)

ORDERED, that Plaintiff/Father Nishith Patel may have virtual supervised access with the Minor Child through the Montgomery County Circuit Court Supervised Visitation Program (240-777-9079) starting immediately, minimum once per week; and in-person supervised access through the Montgomery County Circuit Court Supervised Visitation Program when the center reopens to allow such access; and additional supervised virtual access, minimum once per week, if the parties are able to identify a mutually-agreeable neutral virtual supervisor; and it is further

ORDERED, that this case be and is hereby designated as a "1 Family, 1 Judge" ("1F1J") case, to be assigned to the Honorable Anne K. Albright; and it is further

ORDERED, pursuant to the 1F1J designation, the appeals filed by Plaintiff/Father Nishith Patel in District Court case numbers 0601SP042522020, 0601SP042602020, and 0601SP042612020 be scheduled for hearing before Judge Albright; and it is further

ORDERED, that an expedited Scheduling Hearing also be set as soon as practicable on the remaining requests for relief in Plaintiff's Amended Emergency Motion for Custody and Motion for Reconsideration (DE #55 and DE #56) and Defendant's Verified Family Law Article Section 9-105 Emergency Petition to Modify Custody Order, or in the Alternative, Emergency Petition for Contempt and Enforcement of Custody Order (DE #48), said Scheduling Hearing to occur remotely (via

ENTERED


JUN 17 2020

Clerk of the Circuit Court
Montgomery County, Md.

video conference) before a Family Division Magistrate; and it is further

ORDERED, that after the Scheduling Hearing date is set, and notices thereof are mailed to the parties, video conference links shall be emailed to the Plaintiff, Nishith Patel, at nishp2004@gmail.com; to the Defendant, Krishna Patel, at krishnish2010@gmail.com; and to the Defendant's counsel, Brian M. Barke, Esquire, at barke@maxlaw.us.; and it is further

ORDERED, that all provisions of the June 25, 2018 Judgment of Absolute Divorce (DE #38) shall remain in full force and effect to the extent not inconsistent herewith.



Anne K. Albright, JUDGE
Circuit Court for
Montgomery County, Maryland

cc: Counsel of Record
Parties

ENTERED

JUN 17 2020

Clerk of the Circuit Court
Montgomery County, Md.

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

Nishith Patel,

Appellant.

Case No: 0389, September 2020

CSA-REG-0389-2020

v.

Circuit Court No. 149996FL

Krishna Patel,

Appellee.

APPELLANT'S BRIEF

Nishith Patel, pro se.

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II. STATEMENT OF THE CASE

Appellant Mr. Patel is the father of [REDACTED] Patel, a five year old girl. For approximately two years after a divorce, Mr. Patel shared physical and legal custody of [REDACTED], and both enjoyed a loving father-daughter relationship. Unfortunately, on three occasions, [REDACTED] had markings of physical abuse when she arrived into Mr. Patel's custody. The markings include circular piece of skin that was cut from her foot, markings of duct tape having been placed on her arms and being torn off, heavy scratching on her chest and abdomen, and a cut to her hand. Mr. Patel sought the assistance of the police to investigate, but they did not. Mr. Patel sought the assistance of Child Protective Services to investigate, but they also did not. Mr. Patel then applied for emergency custody with the Circuit Court, but the petitions were denied for unknown reasons and the Circuit Court directed Mr. Patel to request Child Protective Services to investigate – even though he already had. Finally, after several filings to obtain emergency custody, and only after granting appellee / defendant her own motion for emergency custody, the Circuit Court held a hearing on Mr. Patel's emergency motion. In that hearing, Judge Albright denied Mr. Patel's petition and instead granted mother (appellee / defendant) exclusive custody. She also suspended Mr. Patel's access to his daughter (and [REDACTED]'s access to her father).

During Circuit Court proceedings, Judge Albright made numerous errors of law and findings of fact. She has displayed an obvious bias for the mother. To compound the problems, she made herself the “1F1J” of this case, meaning she will continue to preside over future matters between the parties and her complete disregard for what is in the best interests of [REDACTED] and her father will continue. Mr. Patel appeals to this Court to do what the police, child protective services, and the lower courts would not – protect a five-year old girl from her abusers. Mr. Patel further requests this Court to disqualify Judge Albright from this case in the Circuit Court.

III. QUESTIONS PRESENTED

1. Did the Circuit Court err in denying Mr. Patel's temporary petitions for emergency custody given the allegations and evidence provided in his petitions?

2. Did the Circuit Court err in finding that it was in [REDACTED]'s best interests to suspend access to her father for 4 months (and possibly more)?

3. Does Judge Albright's bias against Mr. Patel and in favor of Ms. Patel require her disqualification from future lower court proceedings?

IV. STATEMENT OF FACTS

I. Background

[REDACTED] Patel is the 5 year old daughter of the parties to this case, Appellant / Plaintiff Mr. Nishith Patel and Appellee / Defendant Ms. Krishna Patel. *See generally* Docket. Pursuant to a marital separation agreement reached in mid-2018, [REDACTED] spent approximately 40% of her time with her father and 60% of her time with her mother. (E:49).

Mr. Patel and [REDACTED] have an excellent father-daughter relationship. (E:47). They love spending time with each other, including reading together, doing activities, playing games, and

going hiking. (Id.). Mr. Patel teaches ████████ to be a good person, to be an honest person, and to do the right thing. (E:48). Prior to the Circuit Court's suspension of Mr. Patel's access to his daughter (and ████████'s access to her father) they had celebrated ████████'s achievement of reading the word "fantastic" by herself and gone to a picnic to eat veggie burgers. (E:47-48 and E:58-59). Mr. Patel is a great dad, and he also believes that except for the issues that are before this Court regarding his allegations of child abuse (which are also at the Circuit Court), even mother would agree. (Id.).

II. A Pattern of Child Abuse

On or about July 11, 2019, Mr. Patel saw a circular scar on ████████'s foot. (E:24 and E:60). Based on the information obtained by Mr. Patel, he went to the police to file a report that a member of Ms. Patel's family used a pair of scissors to cut skin off ████████'s foot. (E:39 and E:61-63)¹. He also reported that a member of Ms. Patel's family placed duct tape on ████████'s arms and then ripped it off. (Id.). However, the police never followed up with an investigation into the injuries and did not even contact ████████'s mother, Ms. Patel. (E:25).

On or about May 21, 2020, Mr. Patel observed heavy scratching on ████████'s stomach. (E:42). On or about May 26, 2020, Mr. Patel observed heavy scratching to ████████'s chest area and cut to her hand. (E:28). Based on the information provided to Mr. Patel that members of Ms. Patel's family had caused the injuries, he called the police to investigate, and officers reported to Mr. Patel's home. (E:29 and E:64-66). However, the police did not follow up with an investigation with Ms. Patel or, to her knowledge, her family members either. (E:25). On May 27, 2020, Mr. Patel called Child Protective Services ("CPS") to request their assistance also, but CPS informed Mr. Patel that the only thing they could do is take a report and file it, and that Mr. Patel should go

¹ As noted below, the Circuit Court did not permit the introduction of this police report into evidence in full – although Mr. Patel believes that the Court should have.

to the police or the Commissioner. (E:23). Mr. Patel thereafter applied for protective orders with the Commissioner against various members of Ms. Patel's family based on the information he had at that time on who had harmed [REDACTED] (E:43). All of those petitions for protective custody were denied at the temporary stage, even though none of the respondents offered any testimony to rebut Mr. Patel's evidence, and even though Mr. Patel was not permitted to cross-examine them as witnesses (E:46).

Additionally, Mr. Patel filed Emergency Motions for Custody at the Circuit Court which were docketed on May 28 and May 29, 2020. (E:9). The Emergency Motions alleged, *inter alia*, that members of Ms. Patel's family had caused the above-mentioned physical injuries to [REDACTED] (cuts on the foot and hand, and vigorous scratching on the stomach and chest) and that she was in imminent danger of physical, mental and emotional harm. (Id.). The Emergency Motions also contained photographic evidence of the injuries. Nevertheless, the Circuit Court denied Mr. Patel's Emergency Motions, without a hearing, and directed Mr. Patel to contact Child Welfare Services.² (E:9-E:10). However, as stated above, Mr. Patel had already contacted CPS at that time and CPS had refused to investigate. (E:23).

Mr. Patel filed another Amended Emergency Motion for Custody on June 5, 2020, but that motion was not even docketed. (E:44).

On June 10, 2020, Appellee Ms. Patel filed her own Emergency Petition for Custody because Mr. Patel had not returned [REDACTED] to her custody. (E:10). On the very next day, June 11, 2020 – at 9:30 a.m. – Judge Albright of the Circuit Court held a remote hearing on Ms. Patel's petition – without Mr. Patel's presence. (E:10). Within hours of that hearing Judge Albright issued an order granting Ms. Patel full custody of [REDACTED] and suspending Mr. Patel's access and contact

² Child Welfare Services appears to be another name for Child Protective Services – they both have the same phone number.

with his daughter (and [REDACTED]'s access to her father). (E:61-63). On June 12, 2020, sheriffs took [REDACTED] and placed her with her mother, under whose custody [REDACTED] has been subjected to repeated physical abuse. (E:44-45).

On June 11, 2020 Mr. Patel's fourth attempt to have a hearing on his own Amended Emergency Motion for Custody was docketed. (E:11 Dkt No. 56). Finally, after filing four (4) Emergency Motions, over a period of close to three weeks, and only after first holding an ex-parte hearing on mother's Emergency Petition and issuing an order granting mother exclusive custody and suspending Mr. Patel's, did the Circuit Court finally set a hearing on Mr. Patel's Emergency Motion for Custody. (E:44).

III. The June 15, 2020 and July 16, 2020 Hearings

On June 15, 2020, Judge Albright of the Montgomery County Circuit Court presided over the hearing on Mr. Patel's Emergency Motion. During that hearing, Judge Albright heard testimony and viewed photographic evidence of the physical injuries on [REDACTED] as outlined in the Section II, *supra*. At the conclusion of that hearing, Judge Albright denied Mr. Patel's Emergency Motion for Custody and, further, suspended his access to [REDACTED] (and [REDACTED]'s access to her father) except for a 1-hour supervised virtual meeting. (E:69-72 and E:13 Dkt. Nos. 65-70).

On July 16, 2020, a hearing was held on Mr. Patel's Emergency Motion to Disqualify Judge Albright. (E:53-54). During that hearing, Mr. Patel argued that Judge Albright strong bias against him, as demonstrated by her numerous flawed rulings (as described in the Argument section, below) and making all inferences against Mr. Patel required her disqualification. He also alleged that Judge Albright appeared to have an improper, extrajudicial relationship with Defendant's attorney, Mr. Barke. (E:55-56). Judge Albright declined to recuse herself.³ (E:57). A Notice of

³ Mr. Patel submits that asking any person – even a judge – to evaluate their own biases and then publicly state that they are indeed biased is not likely to produce an admission.

Appeal was filed for that decision also, the transcript of which has been added to this case before the Court of Special Appeals

Pertinent excerpts from the hearing supporting Mr. Patel's contention that Judge Albright's decisions were legally flawed, and further, she was very obviously biased against the father, will be included in the Argument section below.

V. ARGUMENT

As outlined above, Mr. Patel exerted a tremendous amount of effort to engage with the police, with child protective services, with the Commissioner, and with the Circuit Court to report the child abuse committed on [REDACTED] and to obtain protection for her. *See Facts, supra*. For reasons still unknown to Mr. Patel, the police did not investigate the child abuse, CPS did not investigate the child abuse, the District Court would not grant protective orders against the respondents despite them not presenting rebutting evidence and despite improperly denying Mr. Patel the opportunity to cross-examine the respondents, and two Circuit Court judges denied Mr. Patel's Emergency Motions for Custody without a hearing and directed him to contact CPS – even though he had already done so. (*Id.*)

Only after already granting to Ms. Patel custody of [REDACTED] on *her* Emergency Petition did the Circuit Court set a date for Mr. Patel's fourth filing of an Emergency Motion for Custody. These facts, by themselves, demonstrate a pattern of extreme misconduct by Montgomery County employees to protect and enable child abuse.

But to add further pain to Mr. Patel and [REDACTED] Judge Albright of the Circuit Court presided over a sham hearing in which she 1) abused her discretion by failing to serve [REDACTED]'s best interests; 2) manifested an unhealthy and deep-seated bias against Mr. Patel. Because of these

reasons, Mr. Patel requests that Judge Albright's rulings be overturned and further, that she be disqualified as a judge from future proceedings in this case.

I. The Circuit Court Abused Its Discretion by Failing To Grant Mr. Patel Emergency Custody and By Failing To Serve [REDACTED]'s Best Interests

In Maryland, "the overriding goal in determining child custody is to serve the best interests of the child. *Conover v. Conover*, 450 Md. 51, 60 (2016) (citing *Taylor v. Taylor*, 306 Md. 290, 303 (1986) ("We emphasize that in any child custody case, the paramount concern is the best interest of the child The best interest of the child is [] not considered as one of many factors, but as the objective to which virtually all other factors speak."); *See also Ross v. Hoffman*, 280 Md. 172, 174–75 (1977) (asserting that the "best interest standard is firmly entrenched in Maryland and is deemed to be of transcendent importance")). Unfortunately, Judge Albright's decision to force [REDACTED] back into the custody of her mother, where she has been subjected to repeated abuse, and further, denying [REDACTED] access to her loving father, demonstrated that Judge Albright was not at all concerned about serving [REDACTED]'s best interests.

During the Emergency Custody hearing, Mr. Patel presented testimonial and pictorial evidence of the numerous acts of abuse committed upon [REDACTED]. *See Facts, supra*. Specifically, Mr. Patel presented evidence that members of Ms. Patel's family had caused several physical injuries to [REDACTED] (cuts on the foot and hand, and vigorous scratching on the stomach and chest) and that she was in imminent danger of physical, mental and emotional harm. (*Id.*). Mr. Patel also presented evidence that unlike the repeated abuse [REDACTED] was subjected to when under mother's custody, [REDACTED] and her father enjoyed an excellent relationship and that they loved spending time with each other. (*Id.*). He also testified that they do many activities together, that they read, hike and go on picnics. (*Id.*). Mr. Patel also testified that he taught [REDACTED] to be a good and honest person and to do the right thing. (*Id.*).

Tragically, Judge Albright forced ██████ back into the home in which she was repeatedly abused. Further, Judge Albright suspended ██████'s access to her father except for a weekly 1-hour virtual meeting, whereas previously ██████ spent approximately 40% of her time with her father. Forcing a child back into a home where she has been repeatedly abused, while at the same time separating her from her father with whom she has a loving relationship, was clearly not in the best interests for ██████⁴

As described below, Judge Albright absconded her duty to serve ██████'s best interest because her bias against Mr. Patel clouded her judgment.

II. Judge Albright Should Be Disqualified Because She Is Not Impartial And Has Bias Against Mr. Patel

A Maryland judge “shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned ...” MD Rules Judges 18-102.11(a). The impartiality of a judge may be questioned when “the judicial appointee has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding” MD Rules Judges 18-102.11(a)(1). Similarly, “A judge shall uphold and apply the law and shall perform all duties of judicial office impartially and fairly.” MD Rules Judges 18-102.2(a). Further, “impartiality under the Rules means the absence of bias or prejudice in favor of, or against, particular classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge.” *Karanikas v. Cartwright*, 209 Md.App. 571, 61 A.3d 69 (2013). *See also* MD Rules Judges 18-102.2(a), Cmt. 1 (“To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.”)

⁴ Not only was it a disastrous result for ██████ but even Mr. Patel has been forced to wonder whether reporting the abuse to the police and CPS and the courts was the correct decision. At least before his attempts to protect her, ██████ spent 40% of her time with her father and during that time she was safe, growing, and happy.

A party has the right to trial by a judge who is not only impartial and disinterested, but also has the appearance of being impartial and disinterested.” *Cason v. State*, 140 Md. App. 379, 399, 780 A.2d 466, 478 (2001); see *Jefferson-El v. State*, 330 Md. 99, 107, 622 A.2d 737, 741 (1993) (recognizing “the importance of the judicial process not only being fair, but appearing to be fair”). Recusal for the appearance of partiality does not require a finding of actual bias. The standard is “whether a reasonable member of the public knowing all the circumstances would be led to the conclusion that the judge’s impartiality might reasonably be questioned.” *In re Turney*, 311 Md. 246, 253, 533 A.2d at 923 (1987).

Judge Albright displayed a transparent bias against Mr. Patel during the hearing in which she suspended Mr. Patel’s access to [REDACTED] (and her access to her father). Although it is difficult to demonstrate judicial bias through the words of a transcript, repeated and glaring errors committed by Judge Albright demonstrate that she was biased. First, the record demonstrates that even prior to the hearing, Judge Albright had determined that no matter what evidence Mr. Patel presented, and no matter how compelling the need for [REDACTED] to be removed from an abusive household, she would deny Mr. Patel’s Emergency Motion for Custody and only permit supervised access between father and daughter. Second, all of Judge Albright’s inferences and assumptions of fact favored Ms. Patel, even in an instance when Ms. Patel agreed with Mr. Patel. Finally, and most importantly, her extremely harsh ruling that [REDACTED] be denied virtually all access and contact with her father, despite the evidence showing that all that father was trying to do was protect his child from being abused, shows that Judge Albright’s bias against Mr. Patel is so strong that she would disregard doing what was in [REDACTED]’s best interests.

a. Judge Albright Had Determined Prior To The Hearing That She Would Not Grant Mr. Patel's Emergency Motion for Custody

During the hearing on June 15, 2020, Judge Albright on two separate occasions made comments indicating that she had already determined prior to the hearing not to grant Mr. Patel's Emergency Motion, no matter how strong the evidence nor how compelling the need to protect [REDACTED] from her abusers.

THE COURT: Okay, hold on. Two judges have already denied you emergency relief. And one of, the second one told you to go to CPS. So my question is why should you be allowed to bring emergency requests now, when two judges have already denied that. That's the question. (E:22-23).

MR. N. PATEL: ... Your Honor, the reason is because at some point you may decide whether the care of the child is better with me or her⁵ family given that she's not taking care of the child when she's at work. At the present moment I'm working at home and I am --

THE COURT: Sir --

MR. N. PATEL: -- fully capable of taking care of her while she's there.

THE COURT: Okay. I typically do not, we do not decide custody on an emergency basis so please move on. And two judges of this court have already determined that they are not determining your custody petition on an emergency basis so please move on. (E:26-27) (emphasis supplied).

As the above excerpts demonstrate, Judge Albright had already determined prior to the hearing that she would not grant Mr. Patel's Emergency Motion for Custody relying upon prior (*defective*)⁶ rulings of other judges in the Circuit Court. When a hearing was finally set for Mr. Patel's Emergency Motion for Custody (after attempting for several weeks), justice required Judge Albright to be fair and impartial and rule on Mr. Patel's Emergency Motion on the merits. This is

⁵ To provide this Court context, "her" refers to Mother / Appellee.

⁶ Not only had the prior judges failed to correctly apply the "reasonable grounds" standard to believe [REDACTED] was abused, but they did so without holding a hearing. The prior judges also did not consider that Mr. Patel had already contacted CPS and CPS had already refused to investigate the physical abuse committed on [REDACTED], and the prior judges directed him to contact CPS anyway.

especially true because the case involved very serious allegations of child abuse – the physical, emotional and mental health of a five-year-old girl were at stake. By stating that “..two judges of this court have already determined that they are not determining your custody petition on an emergency basis so please move on,” Judge Albright signaled that the well-being of [REDACTED] was irrelevant to her. It did not matter what Mr. Patel’s case was, or how compelling the need to protect [REDACTED] from her abusers – she had determined to deny Mr. Patel’s Emergency Motion regardless.

What is especially revealing about Judge Albright’s bias is that when she cautioned Mr. Patel to “move on” because “typically...we do not decide custody on an emergency basis” she neglected the fact that just days earlier she had herself granted Ms. Patel emergency custody on *her* petition. Mr. Patel submits that admonishing one party that the relief sought is not typically granted while granting that same relief to the opposing party just days earlier meets the threshold for actual bias, and not just the appearance of bias.

b. Judge Albright Had Determined That She Would Continue To Suspend Mr. Patel’s Access To His Daughter (and [REDACTED]’s Access To Her Father) Prior To The Hearing

Not only had Judge Albright determined prior to the hearing that she would deny Mr. Patel’s Emergency Motion for Custody, but she had also determined that she would continue to suspend Mr. Patel’s access to [REDACTED] (and her access to her father) no matter the evidence. As the below excerpt demonstrates, from the outset Judge Albright had determined that she would only allow *supervised* access, if any, between Mr. Patel and [REDACTED]:

THE COURT: ...I would also like the parties to address that if, at this point by my orders Mr. Patel's access to the child has been suspended, and so the other thing I'd like everybody to address is if that continues to, should that continue to be the case, and if so, **what sort of contact with the child should Mr. Patel have in a supervised way.**

(E:20-21). (emphasis supplied).

The above excerpt unequivocally demonstrates that Judge Albright had decided *prior* to the hearing that she would only permit supervised access between father and daughter, no matter the evidence and no matter how detrimental to Mr. Patel and [REDACTED]. It further demonstrates that her preconceived bias against Mr. Patel prevented her from fairly evaluating Mr. Patel's credibility.

c. Judge Albright Assumed Facts Not In Evidence And All Her Inferences Were Favorable to Ms. Patel

Judge Albright also revealed her bias by making unreasonable assumptions of fact, as well as drawing all inferences against Mr. Patel and in favor of Ms. Patel during the hearing.

i. The Scar On [REDACTED]'s Foot

The most unreasonable inference was regarding the circular scar on [REDACTED]'s foot, which Judge Albright stated appeared to her as "minor, minor abrasions." She further stated that she could "Imagine that this could have been the result of wearing shoes that were rubbing or flip flops that were rubbing or a [bite] of some kind." (E:52) (emphasis supplied). As can be plainly seen on the photograph, the scar on [REDACTED]'s foot was not a "minor abrasion." It was a large, circular, protruding scar.⁷ In Mr. Patel's experience, abrasions do not leave such circular, protruding scars. It is also important to note that no other scrapes surround that scar for one to believe it was an abrasion. Finally, anyone who has been bitten by a bug would also know that bug bites do not leave scars such as the one depicted in that picture.

While no evidence was introduced regarding a "minor abrasion" or a "bite of some kind," Mr. Patel did introduce evidence that a member of Defendant's family used a pair of scissors to

⁷ Plaintiff wanted to testify that [REDACTED] informed him that it was the worst pain she has ever felt, and she still remembers it, after a year (she was four years old when a member of Defendant's family used scissors to cut her foot). Judge Albright would not allow the testimony.

cut [REDACTED]'s foot. (E:41-46). Further, Mr. Patel introduced evidence that he reported the injury to the police. (Id). And finally, Mr. Patel introduced evidence that even though he reported the child abuse, the police did not investigate the crime by even contacting the perpetrator, nor Ms. Patel. (Id).

Judge Albright's bias against Mr. Patel blinded her to the truth and the evidence before her very eyes. Despite all the evidence presented regarding the actual cause of the scar on [REDACTED]'s foot, Judge Albright used her imagination and stated that it "appeared a minor abrasion" or a "bite of some kind," trivializing the seriousness of the abuse and the horror inflicted upon [REDACTED].

ii. The Scratching On [REDACTED]'s Stomach And Chest Area

Mr. Patel also presented evidence that a member of Ms. Patel's family intentionally and vigorously scratched [REDACTED]'s stomach and chest area, and that he reported the child abuse to the police. (E:41-43). Again, despite the evidence presented by Mr. Patel, Judge Albright invented her own theories on how the heavy scratching appeared on [REDACTED]:

THE COURT: ...There are a number of reasons a child could have scratches, if there were any, including that she was itching due to an allergy or had eaten something that was causing her to have an allergic reaction or any number of things that have nothing to do with abuse and neglect, if they were there at all. (E:52).

There was no testimony regarding an allergy or the scratches occurring due to [REDACTED] itching herself. Instead of accepting the evidence before her (and that provided to the police), Judge Albright imagined other possibilities that may have caused the scratching to occur on [REDACTED]. Again, Judge Albright's rationalizations to cover up the evidence of child abuse demonstrate a deep-seated bias against Mr. Patel, as well as a complete disregard for the well-being of [REDACTED].

iii. The Lack of CPS' Investigation

Judge Albright's bias is further demonstrated by her refusal to believe Mr. Patel's uncontroverted testimony. For example, Judge Albright simply did not believe Mr. Patel that CPS refused to investigate the physical abuse of [REDACTED]

THE COURT: ...Father says he called CPS. He says they wouldn't investigate. That's where I found his testimony to be less than credible. CPS's job is to investigate. I am inferring that what happened is that, from what he says, is that they did not do what he wanted them to do, but that doesn't mean they didn't investigate or do something. (E:50).

Mr. Patel indeed called CPS, and they told him they could not do anything except take a report and file it, and that he should contact the police or the Commissioner. (E:23). At no point during the hearing was Mr. Patel's testimony controverted. Despite the absence of any rebutting evidence, Judge Albright's bias prevented her from again acknowledging the truth before her – that CPS really did not investigate a reported child abuse case.⁸ Rather than accepting the reality of the situation, Judge Albright created a false narrative to cover for CPS (which fits the pattern of government employees in Montgomery County covering up for child abuse) that “what happened is that...that they did not do what [Mr. Patel] wanted them to do, but that doesn't mean they didn't investigate or do something.” When faced with the harsh reality that there is a county-wide effort to cover up child abuse committed by a Montgomery County employee,⁹ Judge Albright chose instead to call Mr. Patel “less than credible.” Again, this inference shows that Judge Albright has an inherent bias against Mr. Patel.

⁸ At subsequent hearings in this case, even Ms. Patel acknowledged that CPS had not contacted her.

⁹ To Mr. Patel's knowledge, the person who used scissors to cut [REDACTED]'s foot was and remains a Montgomery County employee as of the date of this filing.

d. Judge Albright Believes It Was “Self-Serving” For Mr. Patel To Report Child Abuse To The Police And That Mr. Patel’s Efforts To Protect His Daughter Through The Courts Was “Self-Help”

During the hearing, Mr. Patel attempted to introduce a police report to show that he indeed reported the physical abuse committed upon [REDACTED], and what he had told the police. (E:30-31). Judge Albright did not permit Mr. Patel to introduce the police report in full, against Mr. Patel’s protest, which was among the many evidentiary rulings made by Judge Albright against Mr. Patel.¹⁰ In determining that the police report would not be admitted into evidence, Judge Albright made yet another comment demonstrating her bias against Mr. Patel:

THE COURT: I mean, again, there's a number of statements in here that are the defendant's, the plaintiff's statements to the police. **You know, I think that they're self-serving.** (E:40).

Mr. Patel submits that equating the reporting of child abuse to the police with “self-serving” comments is offensive and dangerous. No parent should have to report child abuse because it should not happen in the first place, but when it does happen, what else should a parent do? Somebody used scissors to cut skin off [REDACTED]’s foot and placed duct tape on her arms and took it off. For Judge Albright to call Mr. Patel’s statements to the police “self-serving” demonstrates her callousness regarding the suffering inflicting upon [REDACTED] as well as her prejudice against Mr. Patel. Further, it shows that she believes that it is more appropriate to cover up for child abuse than to report it to the police.

Similarly, Judge Albright termed Mr. Patel’s attempts to have the police, CPS, and various judges in Montgomery County do their jobs and protect his daughter from being abused as “self-help.” (E:51). Appellant submits that from a public policy perspective, what is the point of having

¹⁰ For example, with respect to the police report, Mr. Patel tried to have it admitted on several grounds, including not for the truth of the matter asserted, but to show Mr. Patel’s state of mind upon learning about the injuries to [REDACTED] but Judge Albright did not permit it. (E:30-41).

a police force, child protective services, and the courts, if when called upon to assist a child who is being abused, they refuse to do so and then chastise the person requesting their assistance as engaging in “self-help”? Again, Judge Albright’s characterization of Mr. Patel’s actions demonstrate that her bias against Mr. Patel (or her motivation to protect child abusers) is so strong that she would rather punish a parent for trying to protect his child from being abused than to query why so many facets of the county government are trying to cover up for child abuse.

e. Judge Albright’s Bias Against Mr. Patel Is So Extreme She Virtually Eliminated His Access To His Daughter (and ██████’s Access To Her Father)

To compound her horrifying ruling to force ██████ to return to her mother, under whose custody she has been subjected to repeated physical abuse, Judge Albright suspended Mr. Patel’s access to his daughter (and her access to her father) except for a one-hour weekly virtual meeting. The brutal decision to separate father from daughter further exemplifies just how unfit Judge Albright is to preside over this case. It has been almost three months that ██████ and her father have not been able to spend time with each other, whereas prior to Judge Albright’s decision, ██████ spent approximately 40% of her time with her father, including staying overnight with him several days a week.

There were any number of actions to temporarily resolve the emergency custody dispute between the parties prior to a full hearing. By taking the most extreme possible option against Mr. Patel and suspending virtually all access between father and daughter for several months, it is apparent that Judge Albright has some kind of animosity or ill-will toward Mr. Patel. Further, by denying ██████ – a five year old girl – virtually all access to her father, whom she adores and loves spending time with, and whose only “fault” was telling her father about the abuse she was receiving, shows that Judge Albright cares not in the slightest what is in the best interests of ██████.

VI. CONCLUSION AND REQUEST FOR ORAL ARGUMENT

The unbelievably sad result of the events in this case is that [REDACTED] was not only abused by members of her mother's family, but she was punished by Montgomery County – the police, CPS, the Courts – for telling her father about the abuse. And not only did Mr. Patel have to bear the horrible grief of learning that his daughter was being abused by members of her mother's family, but he, too, was punished by Montgomery County for reporting the abuse by being separated from his daughter. Mr. Patel respectfully requests that this Court overturn the Circuit Court's decisions to deny Mr. Patel the Emergency Custody he requested. Further, as detailed in this brief, Judge Albright should be disqualified from future proceedings involving the parties because she is a) biased and b) demonstrated a lack of interest in serving [REDACTED]'s best interests. Finally, Mr. Patel requests any further relief as this Court deems appropriate to remedy the vast array of failures by various government officials as detailed in this brief, and requests an oral argument.

Respectfully submitted,

November 10, 2020



Nishith Patel, Appellant

18005 Cottage Garden Dr., Apt 301

Germantown, MD 20874

Npatel.law@gmail.com

VII. CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

This Brief of Appellant contains 5801 words, excluding the table of contents, table of authorities, these certifications. This brief complies with the font, spacing and type size requirements of Rule 8-112.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 10, 2020, copies of Appellant's Brief were served by first class mail to Brian Barke, 51 Monroe Pl., #806, Rockville, MD 20850 (Attorney for Defendant / Appellee).

A handwritten signature in black ink, appearing to read 'N. Patel', is written over a horizontal line.

Nishith Patel

18005 Cottage Garden Dr., Apt 301

Germantown, MD 20874

RECORD EXTRACT

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Case Information

Court System: **Circuit Court for Montgomery County - Domestic System**

Case Number: **149996FL** Sub Type: **DOMESTIC FAMILY**

Date Filed: **12/15/2017**

Case Status: **REOPENED**

Plaintiff Information

(Each Alias, Address, and Attorney for the Plaintiff is displayed)

Name: **PATEL, NISHITH**

Address: **18005 COTTAGE GARDEN DR 301
GERMANTOWN MD 20874**

Defendant Information

(Each Alias, Address, and Attorney for the Defendant is displayed)

Name: **PATEL, KRISHNA N**

Address: **22025 BROADWAY AVENUE
CLARKSBURG MD 20871**

Attorney(s) for the Defendant

Name: **BARKE, BRIAN M**

Address: **MAXWELL BARKE & ZUCKERMAN, LLC
51 MONROE PL STE 806
ROCKVILLE MD 20850**

Phone: **301-309-8300**

Name: **ROBBINS, AIMEE C**

Address: **LAW OFFICES OF AIMEE C ROBBINS
THE B & O RAILROAD STATION
98 CHURCH ST
ROCKVILLE MD 20850**

Phone: **301-251-2672**

Interested Party Information

(Each Alias, Address, and Attorney for the Interested Party is displayed)

Name: **MCOCS**

Address: **51 MONROE STREET #811
ROCKVILLE MD 20850**

Attorney(s) for the Interested Party

Name: **SPECIAL COUNSEL,**

Address: **51 MONROE ST 811
ROCKVILLE MD 20850-2360**

Phone: **800-332-6347**

Court Scheduling Information

(Schedule is subject to change)

Event Date: **08/06/2020**

Description: **PETITIONER'S EXPERTS IDENTIFIED**

Event Date: **08/20/2020**

Description: **RESPONDENT'S EXPERTS IDENTIFIED**

Event Date: **09/24/2020**

Description: **DISCOVERY COMPLETED**

Event Date: **10/08/2020** Event Time: **02:30 PM** Judge: **SEGEL, LISA S**

Location: **50 Maryland Avenue South Tower Hearing Room 2f** Courtroom: **2F**

Description: **SETTLEMENT/STATUS HRG.**

Event Date: **10/26/2020** Event Time: **09:30 AM** Judge: **ALBRIGHT, ANNE KORBEL**

Location: **50 Maryland Avenue South Tower Courtroom 4i** Courtroom: **4I**

Description: **1F1J STATUS HEARING**

Event Date: **11/30/2020** Event Time: **09:30 AM** Judge: **ALBRIGHT, ANNE KORBEL**

Location: **50 Maryland Avenue South Tower Courtroom 4i** Courtroom: **4I**

Description: **MODIFICATION (4 days)**

Event Date: **11/30/2020** Event Time: **09:30 AM** Judge: **ALBRIGHT, ANNE KORBEL**

Location: **50 Maryland Avenue South Tower Courtroom 4i** Courtroom: **4I**

Description: **CONTEMPT (4 days)**

Event Date:

App.069

11/30/2020 Event Time: 09:30 AM Judge: ALBRIGHT, ANNE KORBEL

Location: 50 Maryland Avenue South Tower Courtroom 4i Courtroom: 4I

Description: CUSTODY-MERITS (PJ) (4 days)

Event Date: 11/30/2020 Event Time: 09:30 AM Judge: ALBRIGHT, ANNE KORBEL

Location: 50 Maryland Avenue South Tower Courtroom 4i Courtroom: 4I

Description: ENFORCE (4 days)

Issues Information

Issue: DIVORCE ABSOLUTE

Issue: CUSTODY

Issue: POSSESSION OF PROPERTY

Issue: DETERMINE OWNERSHIP OF PROPERTY

Issue: TRANSFER

Issue: ALIMONY

Issue: FEES

Issue: HEALTH AND HOSPITALIZATION INSURANCE

Issue: DIVORCE LIMITED

Document Tracking

Docket Date: 12/15/2017 Docket Number: 1

Docket Description: BILL OF COMPLAINT

Docket Type: Docket Filed By: Plaintiff

Docket Text: COMPLAINT FOR LIMITED DIVORCE, FILED.

Docket Date: 12/15/2017 Docket Number: 2

Docket Description: INFORMATION SHEET FILED

Docket Type: Docket Filed By: Plaintiff

Docket Text: PLAINTIFF'S INFORMATION SHEET, FILED.

Docket Date: 12/18/2017 Docket Number: 3

Docket Description: SUMMONS ISSUED

Docket Type: Docket Filed By: Court

Docket Text: SUMMONS ISSUED FOR PERSONAL SERVICE AND MAILED TO PLAINTIFF.

Docket Date: 01/17/2018 Docket Number: 4

Docket Description: ANSWER TO F/D SUMMONS

Docket Type: Docket Filed By: Defendant

Docket Text: DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT FOR LIMITED DIVORCE,

FILED.

Docket Date: **01/17/2018** Docket Number: **5**
Docket Description: **FINANCIAL STATEMENT**
Docket Type: **Docket** Filed By: **Defendant**
Docket Text: **DEFENDANT'S FINANCIAL STATEMENT, FILED.**

Docket Date: **01/17/2018** Docket Number: **6**
Docket Description: **COUNTERCLAIM/CROSSCLAIM/CROSS BILL**
Docket Type: **Docket** Filed By: **Defendant**
Docket Text: **DEFENDANT'S COUNTER-COMPLAINT FOR LIMITED DIVORCE, FILED.**

Docket Date: **01/17/2018** Docket Number: **7**
Docket Description: **NOTICE, SCHEDULING HEARING & ORDER**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **NOTICE OF SCHEDULING HEARING AND ORDER OF COURT (GREENBERG, J), ENTERED. (COPIES MAILED)**

Docket Date: **01/23/2018** Docket Number: **8**
Docket Description: **NOTICE, EXISTING SCHEDULE**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **NOTICE OF EXISTING SCHEDULE SENT TO AIMEE C ROBBINS, ESQ, FILED.**

Docket Date: **01/23/2018** Docket Number: **9**
Docket Description: **SHERIFF'S RETURN ON SUMMONS: SERVED**
Docket Type: **Docket** Filed By: **Other**
Docket Text: **SHERIFF'S RETURN ON SUMMONS SERVED ON JANUARY 4, 2018 AS TO NISHITH PATEL, FILED.**

Docket Date: **02/01/2018** Docket Number: **10**
Docket Description: **ANSWER TO COUNTERCOMPLAINT**
Docket Type: **Docket** Filed By: **Plaintiff**
Docket Text: **PLAINTIFF'S ANSWER TO COUNTERCOMPLAINT, FILED. (LP)**

Docket Date: **02/07/2018** Docket Number: **11**
Docket Description: **HEARING, SCHEDULING HEARING**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **SCHEDULING HEARING (WISOR, M.) HELD. PLAINTIFF APPEARED WITHOUT COUNSEL. DEFENDANT APPEARED WITH COUNSEL MS. ROBBINS. MAGISTRATE ASSIGNS CASE TO TRACK 3. MAGISTRATE SETS A PHYSICAL CUSTODY TRIAL BEFORE THE COURT, ADDITIONAL ISSUES TO BE HEARD AT CUSTODY TRIAL: CHILD SUPPORT, VISITATION, ATTORNEY FEES/COURT COSTS.**

Audio Media: **2H-020718** Start: **10:14:14** Stop: **10:23:02**

Docket Date: **02/07/2018** Docket Number: **12**
Docket Description: **MAGISTRATE REFERS CASE TO FACILITATOR**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **FAMILY MAGISTRATE (WISOR, M.) REFERS CASE TO FACILITATOR.**

Docket Date: **02/07/2018** Docket Number: **13**
Docket Description: **ORDER, COPARENTING SKILLS ENHANCEMENT**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER OF COURT (GREENBERG, J./WISOR, M.) FOR COPARENTING SKILLS ENHANCEMENT. COPY HANDED TO: PLAINTIFF NISHITH PATEL, ENTERED. (COPIES HANDED)**

Docket Date: **02/07/2018** Docket Number: **14**
Docket Description: **ORDER, COPARENTING SKILLS ENHANCEMENT**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER OF COURT (GREENBERG, J./WISOR, M.) FOR COPARENTING SKILLS ENHANCEMENT. COPY HANDED TO: DEFENDANT KRISHNA PATEL, ENTERED. (COPIES HANDED)**

Docket Date: **02/07/2018** Docket Number: **15**
Docket Description: **ORDER, FILING OF PRETRIAL STATEMENT**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER OF COURT (GREENBERG, J./WISOR, M.) DIRECTING FILING OF THE PRETRIAL STATEMENT AND JOINT MARITAL PROPERTY STATEMENT, ENTERED. (COPIES HANDED)**

Docket Date: **02/07/2018** Docket Number: **16**
Docket Description: **ORDER, FILING CUSTODY PRETRIAL STATEMENT**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER OF COURT (GREENBERG, J./WISOR, M.) FOR FILING OF A CUSTODY PRETRIAL STATEMENT, ENTERED. (COPIES HANDED)**

Docket Date: **02/07/2018** Docket Number: **17**
Docket Description: **ORDER, CUSTODY/VISITATION EVALUATION**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER OF COURT (GREENBERG, J./WISOR, M.) FOR CUSTODY/VISITATION EVALUATION, ENTERED. (COPIES HANDED)**

Docket Date: **02/07/2018** Docket Number: **18**
Docket Description: **SCHEDULING ORDER - CONTESTED DOMESTIC**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **SCHEDULING ORDER OF COURT (GREENBERG, J./WISOR, M.) FOR CONTESTED DOMESTIC CASE, ENTERED. (COPIES HANDED)**

App:072

Docket Date: **02/07/2018** Docket Number: **19**
 Docket Description: **UNDELIVERABLE MAIL RETURNED**
 Docket Type: **Docket** Filed By: **Other**
 Docket Text: **UNDELIVERABLE MAIL RETURNED ON NOTICE OF SCHEDULING HEARING AND ORDER OF COURT AS TO KRISHNA N PATEL. (LP)**

Docket Date: **02/28/2018** Docket Number: **20**
 Docket Description: **CERTIFICATE REGARDING DISCOVERY**
 Docket Type: **Docket** Filed By: **Defendant**
 Docket Text: **DEFENDANT'S CERTIFICATE REGARDING DISCOVERY, FILED.**

Docket Date: **05/04/2018** Docket Number: **21**
 Docket Description: **MOTION, COMPEL DISCOVERY**
 Docket Type: **Motion** Filed By: **Plaintiff** Status: **Moot**
 Reference Docket(s): **Opposition: 24**
 Docket Text: **PLAINTIFF'S MOTION TO COMPEL DISCOVERY AND ATTACHMENTS, FILED. (LP)**

Docket Date: **05/04/2018** Docket Number: **22**
 Docket Description: **MOTION, EXTEND DISCOVERY DEADLINE**
 Docket Type: **Motion** Filed By: **Plaintiff** Status: **Moot**
 Docket Text: **PLAINTIFF'S MOTION TO EXTEND THE DISCOVERY DEADLINE AND ATTACHMENTS, FILED. (LP)**

Docket Date: **05/09/2018** Docket Number: **23**
 Docket Description: **MOTION, COMPEL DISCOVERY**
 Docket Type: **Motion** Filed By: **Defendant** Status: **Moot**
 Docket Text: **DEFENDANT'S MOTION TO COMPEL DISCOVERY AND ATTACHMENT, FILED. (LP)**

Docket Date: **05/09/2018** Docket Number: **24**
 Docket Description: **OPPOSITION TO MOTION**
 Docket Type: **Opposition** Filed By: **Defendant**
 Reference Docket(s): **Motion: 21**
 Docket Text: **DEFENDANT'S OPPOSITION TO MOTION TO COMPEL, FILED. (LP)**

Docket Date: **05/09/2018** Docket Number: **25**
 Docket Description: **MOTION, DISMISS (PARTIAL - CASE NOT CLOSED)**
 Docket Type: **Motion** Filed By: **Defendant** Status: **Moot**
 Docket Text: **DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S MOTION TO COMPEL, FILED. (LP)**

Docket Date: **05/14/2018** Docket Number: **26**
 Docket Description: **LINE OF DISMISSAL W/O PREJUDICE (PARTIAL)**

Docket Type: **Docket** Filed By: **Joint**
Docket Text: **JOINT CONSENT LINE TO DISMISS PENDENTE LITE HEARING AND TO REQUEST AN UNCONTESTED DIVORCE HEARING DATE, FILED.**
Docket Date: **05/14/2018** Docket Number: **27**
Docket Description: **JOINT LINE FOR UNCONTESTED DIVORCE: 10 MIN.**
Docket Type: **Docket** Filed By: **Joint**
Docket Text: **JOINT REQUEST TO SCHEDULE A 10 MINUTE UNCONTESTED DIVORCE HEARING. FILED.**

Docket Date: **05/16/2018** Docket Number: **28**
Docket Description: **SCHEDULING ORDER - UNCONTESTED DOMESTIC**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **SCHEDULING ORDER OF COURT (GREENBERG, J.) FOR 10 MIN UNCONTESTED DIVORCE, ENTERED. (COPIES MAILED)**

Docket Date: **05/24/2018** Docket Number: **29**
Docket Description: **MOTION DEEMED MOOT PER... (CASE OPEN)**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **THE MOTIONS AT TABS #21, #22, #23 AND #25 HAVE BEEN DEEMED MOOT PER MEMORANDUM.**

Docket Date: **06/05/2018** Docket Number: **30**
Docket Description: **UNDELIVERABLE MAIL RETURNED**
Docket Type: **Docket** Filed By: **Other**
Docket Text: **UNDELIVERABLE MAIL RETURNED (SCHEDULING ORDER FOR UNCONTESTED DIVORCE HEARING) NOT DELIVERED TO KRISHNA N. PATEL, FILED. (LP)**

Docket Date: **06/11/2018** Docket Number: **32**
Docket Description: **ANSWER TO AMENDED BILL OF COMPLAINT/PETITION**
Docket Type: **Docket** Filed By: **Defendant**
Docket Text: **DEFENDANT'S ANSWER TO PLAINTIFF'S AMENDED COMPLAINT FOR DIVORCE, FILED. (LP)**

Docket Date: **06/13/2018** Docket Number: **31**
Docket Description: **AMENDED BILL OF COMPLAINT/PETITION**
Docket Type: **Docket** Filed By: **Plaintiff**
Docket Text: **PLAINTIFF'S AMENDED COMPLAINT FOR ABSOLUTE DIVORCE, FILED.**

Docket Date: **06/13/2018** Docket Number: **33**
Docket Description: **HEARING, UNCONTESTED DIVORCE**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **UNCONTESTED DIVORCE HEARING (BERRY,M.) BEFORE THE FAMILY**

App 074

MAGISTRATE. MAGISTRATE TAKES TESTIMONY ON PLAINTIFF AMENDED COMPLAINT (DE#31) FOR ABSOLUTE DIVORCE. ISSUES ADDRESSED: CHILD SUPPORT, SEPARATION AGREEMENT INCORPORATED BUT NOT TO BE MERGED, COSTS ASSESSED AS PREPAID. PLAINTIFF APPEARED WITHOUT COUNSEL. DEFENDANT WAS NOT PRESENT. DEFENDANT'S COUNSEL MS. ROBBINS WAS PRESENT.

Audio Media: 2K-061318 Start: 09:21:42 Stop: 09:32:32

Docket Date: 06/13/2018 Docket Number: 34
Docket Description: EXHIBIT SHEET FILED
Docket Type: Docket Filed By: Court
Docket Text: EXHIBIT SHEET, FILED. EXHIBITS FILED IN FILE.

Docket Date: 06/13/2018 Docket Number: 35
Docket Description: MAGISTRATE MAKES ORAL RECOMMENDATIONS
Docket Type: Docket Filed By: Court
Docket Text: MAGISTRATE (BERRY, M.) MAKES ORAL RECOMMENDATIONS. SEE MAGISTRATE'S FINDINGS SHEET.

Docket Date: 06/13/2018 Docket Number: 36
Docket Description: DOCUMENTS SHALL BE SEALED/SHIELDED
Docket Type: Docket Filed By: Court
Docket Text: DEFENDANTS EXHIBITS #1 AND DEFENDANTS EXHIBITS #2 SHALL BE SHIELDED.

Docket Date: 06/13/2018 Docket Number: 37
Docket Description: WAIVER OF 10 DAY EXCEPTIONS PERIOD
Docket Type: Docket Filed By: Joint
Docket Text: PLAINTIFF AND DEFENDANT'S WAIVER, FILED.

Docket Date: 06/25/2018 Docket Number: 38
Docket Description: JUDGMENT OF ABSOLUTE DIVORCE
Docket Type: Docket Filed By: Court
Docket Text: JUDGMENT OF ABSOLUTE DIVORCE (DEBELIUS, J./BERRY, M.) GRANTED TO THE PLAINTIFF, JUDGMENT ENTERED. (COPIES MAILED)

Docket Date: 05/03/2019 Docket Number: 39
Docket Description: ORIGINAL RECORD RECEIVED FROM DISTRICT COURT
Docket Type: Docket Filed By: Other
Docket Text: DISTRICT COURT OF MARYLAND DOMESTIC VIOLENCE CASE NUMBER 0601SP017622019 IS TRANSFERRED TO THE CIRCUIT COURT AND GIVEN CASE NUMBER FAMILY LAW 161284 TO BE CONSIDERED ALONG WITH THE ABOVE CAPTIONED CASE, FILED. (LP)

Docket Date: 08/12/2019 Docket Number: 40

Docket Description: **NOTICE, CHANGE CHILD SUPPORT PAYEE (MCOCS)**
Docket Type: **Docket** Filed By: **Intervenor**
Docket Text: **MCOCS' NOTICE TO CHANGE CHILD SUPPORT PAYEE, FILED.**

Docket Date: **05/19/2020** Docket Number: **41**
Docket Description: **MOTION, DECREASE IN SUPPORT (NON-MCOCS)**
Docket Type: **Motion** Filed By: **Plaintiff** Status: **Open**
Docket Text: **PLAINTIFF'S MOTION TO MODIFY CHILD SUPPORT, FILED.**

Docket Date: **05/19/2020** Docket Number: **42**
Docket Description: **FINANCIAL STATEMENT**
Docket Type: **Docket** Filed By: **Plaintiff**
Docket Text: **PLAINTIFF'S FINANCIAL STATEMENT, FILED.**

Docket Date: **05/22/2020** Docket Number: **43**
Docket Description: **SUMMONS ISSUED**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **SUMMONS ISSUED FOR PERSONAL SERVICE AND MAILED TO PLAINTIFF.**

Docket Date: **05/28/2020** Docket Number: **44**
Docket Description: **MOTION, TEMPORARY CARE AND CUSTODY**
Docket Type: **Motion** Filed By: **Plaintiff** Status: **Denied**
Reference Docket(s): **Ruling: 46**
Docket Text: **PLAINTIFF'S EMERGENCY MOTION FOR CUSTODY AND ATTACHMENTS, FILED.**

Docket Date: **05/29/2020** Docket Number: **45**
Docket Description: **MOTION, TEMPORARY CARE AND CUSTODY**
Docket Type: **Motion** Filed By: **Plaintiff** Status: **Denied**
Reference Docket(s): **Ruling: 47**
Docket Text: **PLAINTIFF'S EMERGENCY MOTION FOR CUSTODY AND ATTACHMENTS, FILED.
(L/P)**

Docket Date: **05/29/2020** Docket Number: **46**
Docket Description: **ORDER, TEMPORARY CUSTODY**
Docket Type: **Ruling** Filed By: **Court** Status: **Denied**
Ruling Judge: **JORDAN, RICHARD E**
Reference Docket(s): **Motion: 44**
Docket Text: **ORDER OF COURT (JORDAN, J.) THAT PLAINTIFF'S EMERGENCY MOTION FOR CUSTODY (D.E. #44) IS DENIED, (PLAINTIFF MAY CONTACT CHILD WELFARE SERVICES AT 240-777-3500, ENTERED. (COPIES MAILED)**

Docket Date: **06/01/2020** Docket Number: **47**
Docket Description: **ORDER, TEMPORARY CUSTODY**

Docket Type: **Ruling** Filed By: **Court** Status: **Denied**
Ruling Judge: **SALANT, STEVEN G**
Reference Docket(s): **Motion: 45**
Docket Text: **ORDER OF COURT (SALANT, J.) THAT PLAINTIFF'S EMERGENCY MOTION FOR CUSTODY (D.E. #45) IS DENIED, (PLAINTIFF MAY CONTACT CHILD WELFARE SERVICES AT 240-777-3500, ENTERED. (COPIES MAILED)**

Docket Date: **06/10/2020** Docket Number: **48**
Docket Description: **MOTION, CONTEMPT**
Docket Type: **Motion** Filed By: **Defendant** Status: **Amended**
Docket Text: **DEFENDANT'S VERIFIED FAMILY LAW ARTICLE SECTION 9-105 EMERGENCY PETITION TO MODIFY CUSTODY ORDER, OR IN THE ALTERNATIVE, EMERGENCY PETITION FOR CONTEMPT AND ENFORCEMENT OF CUSTODY ORDER AND ATTACHMENTS, FILED. (LP)**

Docket Date: **06/10/2020** Docket Number: **49**
Docket Description: **CERTIFICATE OF COMPLIANCE**
Docket Type: **Docket** Filed By: **Defendant**
Docket Text: **DEFENDANT'S RULE 1-351 CERTIFICATE OF NOTICE OF INTENTION OF PRESENT EMERGENCY PETITION TO FAMILY DUTY JUDGE AND ATTACHMENT, FILED. (LP)**

Docket Date: **06/11/2020** Docket Number: **50**
Docket Description: **HEARING**
Docket Type: **Ruling** Filed By: **Court**
Docket Text: **HEARING (ALBRIGHT, J.) ON DEFENDANT'S VERIFIED FAMILY LAW ARTICLE SECTION 9-105 EMERGENCY PETITION TO MODIFY CUSTODY ORDER AT DE#48- GRANTED IN PART/DEFERRED IN PART AS SET FORTH ON THE RECORD. ORDER SIGNED. PLAINTIFF WAS NOT PRESENT. DEFENDANT APPEARED WITH COUNSEL, MR. BARKE.**
Audio Media: **4I-061120** Start: **14:03:41** Stop: **14:57:52**

Docket Date: **06/11/2020** Docket Number: **51**
Docket Description: **COURT SETS**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **COURT (ALBRIGHT, J.) SETS A ONE (1) HOUR FURTHER HEARING FOR JUNE 15, 2020 AT 9:30 A.M. BEFORE THIS MEMBER OF THE BENCH.**

Docket Date: **06/11/2020** Docket Number: **52**
Docket Description: **EXHIBIT SHEET FILED**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **EXHIBIT SHEET, FILED.**

Docket Date: **06/11/2020** Docket Number: **53**
Docket Description: **ORDER, TEMPORARY CUSTODY**
Docket Type:

App 077

Docket Filed By: Court

Docket Text:

EMERGENCY ORDER OF COURT (ALBRIGHT, J.) THAT IMMEDIATELY UPON THE ENTRY HEREOF PLAINTIFF SHALL CAUSE THE RETURN OF THE PARTIES' MINOR CHILD, THAT ANY PEACE OFFICER OR LAW ENFORCEMENT OFFICER MAY USE ALL REASONABLE AND NECESSARY FORCE TO CAUSE THE RETURN OF THE CHILD TO DEFENDANT, THAT PLAINTIFF'S ACCESS TO, AND CONTACT WITH, THE CHILD BE AND IS HEREBY SUSPENDED PENDING FURTHER ORDER OF COURT, ENTERED. (COPIES MAILED)

Docket Date: **06/11/2020** Docket Number: **54**

Docket Description: **CERTIFIED COPIES ISSUED**

Docket Type: **Docket** Filed By: **Court**

Docket Text: **CERTIFIED COPIES ISSUED AND HANDED.**

Docket Date: **06/11/2020** Docket Number: **55**

Docket Description: **MOTION, TEMPORARY CARE AND CUSTODY**

Docket Type: **Motion** Filed By: **Plaintiff** Status: **Open**

Docket Text: **PLAINTIFF'S AMENDED EMERGENCY MOTION FOR CUSTODY AND MOTION FOR RECONSIDERATION, AFFIDAVIT OF NISHITH PATEL AND ATTACHMENTS, FILED.**

Docket Date: **06/11/2020** Docket Number: **56**

Docket Description: **MOTION, TEMPORARY CARE AND CUSTODY**

Docket Type: **Motion** Filed By: **Plaintiff** Status: **Partial**

Ruling Judge: **ALBRIGHT, ANNE KORBEL**

Reference Docket(s): **Ruling: 64**

Docket Text: **PLAINTIFF'S AMENDED EMERGENCY MOTION FOR CUSTODY AND MOTION FOR RECONSIDERATION, AFFIDAVIT OF NISHITH PATEL AND ATTACHMENTS, FILED.**

Docket Date: **06/11/2020** Docket Number: **57**

Docket Description: **MOTION, EXPEDITED HEARING**

Docket Type: **Motion** Filed By: **Defendant** Status: **Granted**

Ruling Judge: **ALBRIGHT, ANNE KORBEL**

Reference Docket(s): **Ruling: 58**

Docket Text: **DEFENDANT'S EMERGENCY REQUEST FOR A STATUS HEARING AND DEFENDANT'S RULE 1-351 CERTIFICATE OF NOTICE TO PRESENT EMERGENCY REQUEST FOR A STATUS HEARING, FILED.**

Docket Date: **06/12/2020** Docket Number: **58**

Docket Description: **HEARING**

Docket Type: **Ruling** Filed By: **Court** Status: **Granted**

Ruling Judge: **ALBRIGHT, ANNE KORBEL**

Reference Docket(s): **Motion: 57**

Docket Text: **HEARING (ALBRIGHT, J.) ON DEFENDANT'S MOTION FOR AN EMERGENCY REQUEST FOR A STATUS HEARING AT DE#57- GRANTED. ORDER SIGNED. PLAINTIFF DID NOT APPEAR. DEFENDANT APPEARED WITH COUNSEL, MR. BARKE (VIA TELEPHONE) .**

Audio Media:

4I-061220 Start: 10:40:02 Stop: 11:07:18

Docket Date: **06/12/2020** Docket Number: **59**
Docket Description: **MEMORANDUM**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **JUDGE ALBRIGHT'S MEMORANDUM TO ASSIGNMENT OFFICE, FILED.**

Docket Date: **06/12/2020** Docket Number: **60**
Docket Description: **ORDER, RETURNING CHILD TO HOME**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER OF COURT (ALBRIGHT, J.) THAT THE PARTIES' MINOR CHILD SHALL BE REMOVED FROM THE CARE OF PLAINTIFF, NISHITH PATEL AND RETURNED TO THE CARE OF THE DEFENDANT, KRISHNA N. PATEL AND THAT ANY PEACE OFFICER OR LAW ENFORCEMENT OFFICER MAY USE ALL REASONABLE AND NECESSARY FORCE TO CAUSE THE RETURN OF THE CHILD TO DEFENDANT, KRISHNA N. PATEL, ENTERED. (COPIES MAILED/EMAILED)**

Docket Date: **06/12/2020** Docket Number: **61**
Docket Description: **CERTIFIED COPIES ISSUED**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **CERTIFIED COPIES ISSUED AND MAILED.**

Docket Date: **06/12/2020** Docket Number: **68**
Docket Description: **REQUEST, INTERPRETER (LANGUAGE)**
Docket Type: **Docket** Filed By: **Defendant**
Docket Text: **DEFENDANT'S WITNESS REQUEST FOR GUJARATI SPEAKING INTERPRETER, FILED. (FILED BY E-MAIL)**

Docket Date: **06/15/2020** Docket Number: **62**
Docket Description: **HEARING CONTINUED (RESUMED)**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **HEARING CONTINUED (ALBRIGHT, J.) ON DEFENDANT'S VERIFIED FAMILY LAW ARTICLE SECTION 9-105 EMERGENCY PETITION TO MODIFY CUSTODY ORDER (DE#48) HELD. PLAINTIFF APPEARED PRO SE VIA VIDEO CONFERENCE. DEFENDANT APPEARED WITH COUNSEL MR. BARKE VIA VIDEO CONFERENCE.**
Audio Media: **4I-061520 Start: 09:41:58 Stop: 11:17:40**
Audio Media: **4I-061520 Start: 11:35:35 Stop: 13:37:16**

Docket Date: **06/15/2020** Docket Number: **63**
Docket Description: **COURT ORDERS/DIRECTS/DETERMINES**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **COURT (ALBRIGHT, J.) GRANTS IN PART AND DEFERS IN PART DEFENDANT'S VERIFIED FAMILY LAW ARTICLE SECTION 9-105 EMERGENCY PETITION TO MODIFY CUSTODY (DE#48) . ORDER TO BE SUBMITTED.**

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DOC: 4-2

FILED: 02/10/2022

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Docket Date: **06/15/2020** Docket Number: **64**
Docket Description: **HEARING**
Docket Type: **Ruling** Filed By: **Court** Status: **Partial**
Ruling Judge: **ALBRIGHT, ANNE KORBEL**
Reference Docket(s): **Motion: 56**
Docket Text: **HEARING (ALBRIGHT, J.) ON PLAINTIFF'S AMENDED EMERGENCY MOTION FOR CUSTODY (DE#56) - DENIED IN PART AND DEFERRED IN PART. ORDER TO BE SUBMITTED.**
Audio Media: **4I-061520** Start: **09:41:58** Stop: **11:17:40**
Audio Media: **4I-061520** Start: **11:35:35** Stop: **13:37:16**

Docket Date: **06/15/2020** Docket Number: **65**
Docket Description: **HEARING**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **HEARING (ALBRIGHT, J.) ON PLAINTIFF'S AMENDED EMERGENCY MOTION FOR CUSTODY (DE#55) - DENIED IN PART AND DEFERRED IN PART. ORDER TO BE SUBMITTED.**
Audio Media: **4I-061520** Start: **09:41:58** Stop: **11:17:40**
Audio Media: **4I-061520** Start: **11:35:35** Stop: **13:37:16**

Docket Date: **06/15/2020** Docket Number: **66**
Docket Description: **CASE DESIGNATED AS 1F1J**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **COURT (ALBRIGHT, J.) DETERMINES THAT THIS CASE IS ASSIGNED AS ONE FAMILY/ONE JUDGE.**

Docket Date: **06/15/2020** Docket Number: **67**
Docket Description: **EXHIBIT SHEET FILED**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **EXHIBIT SHEET, FILED.**

Docket Date: **06/17/2020** Docket Number: **69**
Docket Description: **ORDER, TEMPORARY CUSTODY**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER OF COURT (ALBRIGHT, J.) THIRD EMERGENCY ORDER GRANTING TEMPORARY EMERGENCY CUSTODY TO DEFENDANT/MOTHER, ENTERED. (COPIES MAILED)**

Docket Date: **06/17/2020** Docket Number: **70**
Docket Description: **ORDER, REFERRAL SUPERVISED VISIT. (EXTERN)**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER (ALBRIGHT, J.) REFERRING CASE TO THE SUPERVISED VISITATION PROGRAM, ENTERED. (COPIES MAILED)**

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Docket Date: **06/17/2020** Docket Number: **71**
Docket Description: **LINE**
Docket Type: **Docket** Filed By: **Plaintiff**
Docket Text: **PLAINTIFF'S LINE TO FILE THE JUNE 12, 2020 COMMUNICATION IN THE ABOVE CAPTIONED CASE, FILED.**

Docket Date: **06/22/2020** Docket Number: **72**
Docket Description: **INTERLOCUTORY APPEAL**
Docket Type: **Docket** Filed By: **Plaintiff**
Docket Text: **PLAINTIFF'S NOTICE OF EXPEDITED APPEAL, FILED. (LP)**

Docket Date: **06/29/2020** Docket Number: **73**
Docket Description: **HEARING, SCHEDULING HEARING**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **SCHEDULING HEARING (SEGEL, M.) HELD. PLAINTIFF APPEARED PRO SE (VIA TELEPHONE CONFERENCE CALL) . DEFENDANT APPEARED WITH COUNSEL, MR. BARKE (VIA TELEPHONE CONFERENCE CALL) . MAGISTRATE SETS POST JUDGMENT ISSUES.**
Audio Media: **2F-062920** Start: **09:49:31** Stop: **10:24:22**

Docket Date: **06/29/2020** Docket Number: **74**
Docket Description: **ORDER, CUSTODY/VISITATION EVALUATION**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER OF COURT (GREENBERG, J./SEGEL, M.) FOR CUSTODY/VISITATION EVALUATION, ENTERED. (COPIES MAILED)**

Docket Date: **06/29/2020** Docket Number: **75**
Docket Description: **ORDER, CONTEMPT HEARING (NON-MCOCS)**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **ORDER OF COURT (GREENBERG, J./SEGEL, M.) THAT THE PLAINTIFF APPEAR BEFORE A JUDGE ON NOVEMBER 30, 2020 AT 9:30 AM, ENTERED. (COPIES MAILED)**

Docket Date: **06/29/2020** Docket Number: **76**
Docket Description: **COURT ORDERS/DIRECTS/DETERMINES**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **MAGISTRATE (SEGEL, M.) DETERMINES THAT THE 1F1J STATUS HEARING WILL BE HELD ON OCTOBER 8, 2020 WITH THE SETTLEMENT STATUS HEARING.**

Docket Date: **06/29/2020** Docket Number: **77**
Docket Description: **COURT ORDERS/DIRECTS/DETERMINES**
Docket Type: **Docket** Filed By: **Court**

Docket Text: **MAGISTRATE (SEGEL, M.) DETERMINES THAT THE SHOW CAUSE ORDER IS DEEMED SERVED UPON THE PARTIES.**

Docket Date: **07/01/2020** Docket Number: **82**

Docket Description: **ORDER OF COURT OF SPECIAL APPEALS DIRECTING**

Docket Type: **Docket** Filed By: **Court**

Docket Text: **ORDER OF COURT OF SPECIAL APPEALS (FADER J.) THAT PURSUANT TO MARYLAND RULE 8-206 (C) , THE ABOVE-CAPTIONED APPEAL PROCEED WITHOUT A PREHEARING CONFERENCE OR ALTERNATIVE DISPUTE RESOLUTION. THE COURT FURTHER DIRECTS THAT THE APPEAL PROCEED UNDER MARYLAND RULE 8-207 (A) , ENTERED. (LP)**

Docket Date: **07/02/2020** Docket Number: **78**

Docket Description: **MOTION, DISQUALIFY/RECUSE**

Docket Type: **Motion** Filed By: **Plaintiff** Status: **Denied**

Reference Docket(s): **Ruling: 79**

Docket Text: **PLAINTIFF'S MOTION FOR DISQUALIFICATION OF JUDGE AND ATTACHMENT, FILED. (FILED BY EMAIL)**

Docket Date: **07/06/2020** Docket Number: **79**

Docket Description: **ORDER, DISQUALIFY/RECUSE**

Docket Type: **Ruling** Filed By: **Court** Status: **Denied**

Ruling Judge: **ALBRIGHT, ANNE KORBEL**

Reference Docket(s): **Motion: 78**

Docket Text: **ORDER OF COURT (ALBRIGHT, J.) THAT PLAINTIFF'S MOTION FOR DISQUALIFICATION OF JUDGE IS DENIED WITHOUT PREJUDICE, ENTERED. (COPIES MAILED)**

Docket Date: **07/06/2020** Docket Number: **80**

Docket Description: **CERTIFICATE REGARDING DISCOVERY**

Docket Type: **Docket** Filed By: **Defendant**

Docket Text: **DEFENDANT'S CERTIFICATE REGARDING DISCOVERY, FILED. (FILED BY E-MAIL)**

Docket Date: **07/13/2020** Docket Number: **81**

Docket Description: **TRANSCRIPT OF PROCEEDINGS**

Docket Type: **Docket** Filed By: **Plaintiff**

Docket Text: **TRANSCRIPT OF PROCEEDINGS ON HEARING ON JUNE 15, 2020, FILED.**

Docket Date: **07/15/2020** Docket Number: **83**

Docket Description: **MOTION, CONTEMPT**

Docket Type: **Motion** Filed By: **Defendant** Status: **Open**

Docket Text: **DEFENDANT/MOTHER KRISHNA PATEL'S AMENDED PETITION TO MODIFY CUSTODY, AND REQUEST FOR CHILD SUPPORT AND ATTACHMENT, FILED. (FILED BY E-MAIL) (LP)**

Docket Date:

App 082

07/15/2020 Docket Number: **84**
 Docket Description: **FINANCIAL STATEMENT**
 Docket Type: **Docket** Filed By: **Defendant**
 Docket Text: **DEFENDANT'S FINANCIAL STATEMENT, FILED. (FILED BY E-MAIL) (LP)**

07/15/2020 Docket Number: **85**
 Docket Description: **CERTIFICATE OF COMPLIANCE**
 Docket Type: **Docket** Filed By: **Plaintiff**
 Docket Text: **PLAINTIFF'S RULE 1-351 CERTIFICATE OF NOTICE OF INTENTION TO PRESENT AMENDED EMERGENCY MOTION FOR DISQUALIFICATION OF JUDGE, FILED. (LP) (FILED BY EMAIL)**

07/16/2020 Docket Number: **86**
 Docket Description: **HEARING**
 Docket Type: **Docket** Filed By: **Court**
 Docket Text: **HEARING (ALBRIGHT, J.) ON PLAINTIFF'S EMERGENCY MOTION TO DISQUALIFY J. ALBRIGHT, HELD VIA ZOOM APP. PLAINTIFF APPEARED WITHOUT COUNSEL. MR. BARKE APPEARED ON BEHALF OF DEFENDANT.**
 Audio Media: **4I-071620** Start: **09:32:12** Stop: **09:52:08**
 Audio Media: **4I-071620** Start: **11:34:08** Stop: **12:59:08**

07/16/2020 Docket Number: **87**
 Docket Description: **COURT ORDERS/DIRECTS/DETERMINES**
 Docket Type: **Docket** Filed By: **Court**
 Docket Text: **COURT (ALBRIGHT, J.) DENIED PLAINTIFF'S EMERGENCY MOTION FOR REASONS STATED ON THE RECORD.**

07/16/2020 Docket Number: **88**
 Docket Description: **COURT SETS**
 Docket Type: **Docket** Filed By: **Court**
 Docket Text: **COURT (ALBRIGHT, J.) SETS MODIFICATION OF CUSTODY ON 8/14/20 AT 9:30AM IN COURTROOM 4I FOR THREE (3) HOURS.**

07/16/2020 Docket Number: **89**
 Docket Description: **EXHIBIT SHEET FILED**
 Docket Type: **Docket** Filed By: **Plaintiff**
 Docket Text: **PLAINTIFF'S EXHIBIT SHEET, FILED.**

07/17/2020 Docket Number: **90**
 Docket Description: **REQUEST, HEARING**
 Docket Type: **Docket** Filed By: **Plaintiff**
 Docket Text: **PLAINTIFF'S REQUEST FOR HEARING, FILED. (FILED BY E-MAIL) (LP)**

App 083

Docket Date: **07/23/2020** Docket Number: **91**
Docket Description: **MEMORANDUM**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **JUDGE ALBRIGHT'S MEMORANDUM TO THE ASSIGNMENT OFFICE, FILED. (LP)**

Docket Date: **07/27/2020** Docket Number: **92**
Docket Description: **MOTION, CHANGE OF CUSTODY (RESIDENTIAL)**
Docket Type: **Motion** Filed By: **Plaintiff** Status: **Open**
Docket Text: **PLAINTIFF'S AMENDED MOTION TO MODIFY CUSTODY, FILED. (FILED BY E-MAIL) (LP)**

Docket Date: **07/27/2020** Docket Number: **93**
Docket Description: **MOTION, SUPPORT (NON-MCOCS)**
Docket Type: **Motion** Filed By: **Plaintiff** Status: **Open**
Docket Text: **PLAINTIFF'S REQUEST FOR CHILD SUPPORT, FILED. (FILED BY E-MAIL) (LP)**

Docket Date: **07/29/2020** Docket Number: **94**
Docket Description: **RECORD MAILED TO COURT OF SPECIAL APPEALS**
Docket Type: **Docket** Filed By: **Court**
Docket Text: **RECORD MAILED TO COURT OF SPECIAL APPEALS. (1 VOLUME, 1 TRANSCRIPT AND 2 ENVELOPES)**

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IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

-----X
NISHITH PATEL, :
 :
 :
 Plaintiff, :
 :
 :
 v. : Family Law No. 149996
 :
 KRISHNA N. PATEL, :
 :
 :
 Defendant. :
 :
-----X

HEARING

Rockville, Maryland

June 15, 2020

DEPOSITION SERVICES, INC.
12321 Middlebrook Road, Suite 210
Germanstown, Maryland 20874
App. 085
(301) 881-3344

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

-----X
:
NISHITH PATEL, :
:
Plaintiff, :
:
v. : Family Law No. 149996
:
KRISHNA N. PATEL, :
:
Defendant. :
:
-----X

Rockville, Maryland

June 15, 2020

WHEREUPON, the proceedings in the above-entitled
matter commenced

BEFORE: THE HONORABLE ANNE K. ALBRIGHT, JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

NISHITH PATEL, Pro se
18005 Cottage Garden Drive, #301
Germantown, Maryland 20874

FOR THE DEFENDANT:

BRIAN M. BARKE, Esq.
Maxwell, Barke & Zuckerman, LLC
51 Monroe Place, Suite 806
Rockville, Maryland 20850

1 MR. N. PATEL: -- to cross-examine the witnesses.

2 THE COURT: Okay, hold on. Let me give everybody
3 some ground rules. The ground rules are as follows.

4 MR. N. PATEL: Forgive me, I can't hear you. Can you
5 hold on a second? I couldn't hear Your Honor, and I've had a,
6 I just, my nose started bleeding, so I had to go get a tissue.

7 THE COURT: Okay. Are you all right?

8 MR. N. PATEL: This happens spontaneously sometimes.

9 THE COURT: Okay. As you may be able to tell, I'm
10 wearing a mask, and so I'm going to try to keep my voice up.
11 In doing so, I may sound angry. I'm not angry, but I'm trying
12 to keep my voice up.

13 If I go like this, can you see my hand up? Can
14 everybody see my hand up?

15 MR. N. PATEL: Yes.

16 THE COURT: Okay. If I put my hand up, what that
17 means is that I'd like you to stop because I can't hear you.
18 And I would urge people not to interrupt, because everybody
19 will get an opportunity.

20 So the issues for now are to what extent does this
21 present an emergency, and what should the Court do at this
22 point. I would also like the parties to address that if, at
23 this point by my orders Mr. Patel's access to the child has
24 been suspended, and so the other thing I'd like everybody to
25 address is if that continues to, should that continue to be the

1 case, and if so, what sort of contact with the child should Mr.
2 Patel have in a supervised way. Those are the issues for now.

3 And so I'm going to allow Mr. Barke to go first,
4 because it was his motion that was first filed on these issues
5 as far as I'm concerned. And then the opening, I will let Mr.
6 Patel make an opening statement after that point.

7 Okay, Mr. Barke, briefly your opening statement.

8 MR. BARKE: Thank you, Your Honor.


9 OPENING STATEMENT BY BRIAN M. BARKE, ESQ.

10 ON BEHALF OF THE DEFENDANT

11 The evidence will show that after the entry of the
12 second emergency order, that is at number 60 in the jacket, it
13 was entered June 12, 2020, at some time after that the
14 plaintiff, Nishith Patel, went and filed another domestic
15 violence protective order. This one he filed against Sanket
16 Patel. I've sent the exhibit over for the Court to print out.
17 I'll have that marked and we'll move to admit that.

18 There was an interim protective order entered.
19 Nishith Patel again restated, in our view, absurd and
20 outlandish allegations --

21 THE COURT: Okay.

22 MR. BARKE: -- of purported abuse against 
23 (phonetic sp.). And again, this (unintelligible) punished.

24 THE COURT: Okay, Mr. Barke, repeat what you just
25 said. I heard absurd and outlandish allegations, and then you

1 managed by the Safe Passages Center when that facility becomes
2 available.

3 THE COURT: Okay. Thank you.

4 Okay, I will hear a brief opening statement from the
5 plaintiff.

6 OPENING STATEMENT BY NISHITH PATEL, PRO SE

7 THE PLAINTIFF

8 Your Honor, I'm not sure which motion you're
9 referring to. Are we talking about my emergency motion for
10 custody?

11 THE COURT: Fifty-five, at Docket Entry 55 and 56.
12 And the question is to what extent does, the questions I'd like
13 you to address are to what extent does it present an emergency,
14 and why is it different from the decisions that Judge Jordan
15 and Judge Salant made in the end of May and the beginning of
16 June, denying you emergency relief. In other words, two --

17 MR. N. PATEL: Your Honor, the reason I --

18 THE COURT: Excuse me.

19 MR. N. PATEL: -- asked that question, Your Honor, is
20 because --

21 THE COURT: Excuse me.

22 MR. N. PATEL: -- I'm not sure --

23 THE COURT: Okay, hold on. Two judges have already
24 denied you emergency relief. And one of, the second one told
25 you to go to CPS. So my question is why should you be allowed

1 to bring emergency requests now, when two judges have already
2 denied that. That's the question.

3 MR. N. PATEL: For two reasons. One is that I've
4 already gone to CPS. CPS refused to investigate. They told me
5 that the only thing they can do is take a report, file it, and
6 I should contact the police or go to the commissioner, so
7 that's what I did.

8 The other reason is because the first two motions
9 that I filed, they didn't include an affidavit or a certificate
10 of service. The one that you have before you has both.

11 THE COURT: Okay. So your view is that the decisions
12 of the judges was not on the merits of your complaint.

13 MR. N. PATEL: I can, as I understand it, the
14 standard for granting an emergency motion for custody is that
15 the child is placed in imminent and substantial danger of
16 physical harm. And I provided evidence of the physical harm
17 that she is suffering at the defendant's household, and I
18 cannot for the life of me understand why she is permitted to
19 return to the house when I presented the evidence that she's
20 been subjected to continuous physical abuse while she is there.

21 THE COURT: Okay. Let's proceed then.

22 Mr. Barke, how many witnesses do you have? Okay, Mr.
23 Barke, I can't hear you. You're muted. Okay, you were muted.

24 MR. BARKE: My apologies. I'm so sorry. I
25 apologize.

1 question, sir?

2 MR. N. PATEL: No, I, could I have a court reporter
3 or someone read me that question?

4 THE COURT: Okay, we don't have a court reporter
5 here. We're being recorded by an electronic automatic
6 recording device.

7 MR. N. PATEL: Okay.

8 THE COURT: I can tell you what my notes say. Do you
9 know of anyone who planned to scratch the child's chest on or
10 about May 26th, 2020?

11 BY MR. N. PATEL:

12 Q You may answer.

13 A No.

14 MR. N. PATEL: Your Honor, I'd like to now introduce
15 my second exhibit regarding the injury to her foot, my
16 daughter's foot.

17 THE COURT: Okay, so this is what we have --

18 MR. N. PATEL: Oh, and if I forgot to do so, may I
19 enter into evidence, if I didn't do it and I'm technically
20 correct, may I introduce into evidence the picture of the
21 injury to her hand?

22 MR. BARKE: No objection.

23 THE COURT: Okay, yes, Exhibit No., Plaintiff's
24 Exhibit No. 1 will be admitted.

25 (The photograph marked for

1 that injury, or don't remember she telling me.

2 Q Did anybody else speak to you about the injury to
3 her?

4 A No.

5 Q Were you contacted by the police?

6 A No.

7 Q Do you know of anyone in your family who was
8 contacted by the police?

9 A No.

10 MR. N. PATEL: Your Honor, I'd like to introduce
11 another exhibit, which maybe I'll have to, you know what, I
12 don't know if the defendant can, I'd like to introduce it
13 anyway. I'd like to show you a police report, which Your
14 Honor, I sent to you this morning, to your law clerk.

15 THE COURT: I see incident reports, one from July
16 2019, another from May 2020. Which one are you talking about?

17 MR. N. PATEL: The July one, Your Honor.

18 THE COURT: Which one?

19 MR. N. PATEL: The July 2019 one, Your Honor.

20 THE COURT: Okay. Would you like this marked as an
21 exhibit?

22 MR. N. PATEL: Yes, Your Honor. Before we move on
23 can I have Exhibit No. 2 introduced into evidence?

24 MR. BARKE: No objection.

25 THE COURT: Okay. No. 2 is admitted.

1 A It varies. It's not fixed.

2 Q What was it last week?

3 A I haven't gone there because of the whole situation
4 right now.

5 Q Okay. Approximately how many hours a week do you
6 work at this liquor store?

7 A Maybe 10.

8 Q Do you work on the weekends?

9 A Not every weekend. Every other weekend when Nandi's
10 not with me.

11 Q What about the weekends that she is with me, do you
12 work at the liquor store?

13 A Yes.

14 Q What are your hours when you're not working, what are
15 your weekday hours?

16 A It depends upon their, upon the store's need.

17 Q Approximately how many hours would you say you work
18 on the weekdays?

19 A I just say 10 including weekends.

20 Q No, I'm asking specifically about the weekdays that
21 you work. What are you hours? Do you work from 6:00 to 9:00
22 or 7:00 to 10:00?

23 THE COURT: Okay, I don't --

24 THE WITNESS: 6:00 to 10:00.

25 THE COURT: I don't see how this has anything to do

1 with the matters that are before the Court so please move on.

2 MR. N. PATEL: 6:00 to 10:00. Your Honor, the reason
3 is because at some point you may decide whether the care of the
4 child is better with me or her family given that she's not
5 taking care of the child when she's at work. At the present
6 moment I'm working at home and I am --

7 THE COURT: Sir --

8 MR. N. PATEL: -- fully capable of taking care of her
9 while she's there.

10 THE COURT: Okay. I typically do not, we do not
11 decide custody on an emergency basis so please move on. And
12 two judges of this court have already determined that they are
13 not determining your custody petition on an emergency basis so
14 please move on.

15 BY MR. N. PATEL:

16 Q (Unintelligible) is the e-mail exchange that I sent
17 to you by e-mail.

18 THE COURT: I'm sorry, I didn't catch the first few
19 words of what you said.

20 MR. N. PATEL: I'd like to ask the witness about the
21 e-mail exchange that I sent you as an exhibit this morning.

22 THE COURT: Okay. Are you talking about the e-mail
23 that says picking up Nandi today after 5:00?

24 MR. N. PATEL: Yes, Your Honor.

25 THE COURT: Okay. Did you --

1 not allowed to testify at this point based on notes. So,
2 please turn them over. Okay. And please don't look at them
3 again until you've shown us that that's necessary. So, you may
4 testify --

5 A (Unintelligible) Your Honor. It was my, it was my
6 amended motion that I was referring to. So, it wasn't anything
7 new.

8 Q Okay. You may testify based on your memory. If you
9 want to consult documents, you may, but you have to show us
10 that that's necessary. So, go ahead.

11 A On or about May 26th, 2020, my daughter arrived at my
12 house with vigorous scratch marks on her chest area. When I
13 asked her who or what did it, she initially told me it was --

14 MR. BARKE: Objection.

15 THE COURT: Sustained.

16 BY THE COURT:

17 Q That's hearsay, sir. Please go ahead without
18 eliciting hearsay.

19 A I was informed --

20 MR. BARKE: Objection.

21 BY THE COURT:

22 Q Who are you, who are you informed by?

23 A My daughter.

24 Q Okay. Sustained. You can't tell us --

25 A (Unintelligible).

1 Q You can't tell us what your daughter said, sir,
2 unless you show us that it falls within a hearsay exception.

3 A I'm speaking to the knowledge that I have. I'm not
4 necessarily talking about what she told me, but what knowledge
5 I had at that time. I believe the legal term is, you know, not
6 to the truth of the matter, but to the state of my knowledge.
7 I forget what the hearsay evidence is, or hearsay rule is.

8 Q So, what you can do is you can say as a result of
9 what your daughter told you, and then you can take steps, but
10 you can't -- if your knowledge is based only on what she told
11 you, it's still a way of eliciting hearsay. So, I'm not going
12 to allow that.

13 A As a result of what my daughter told me, it was my
14 understanding that her uncle caused --

15 MR. BARKE: Objection.

16 THE COURT: Sustained.

17 BY THE COURT:

18 Q Sir, you can tell us what you did as a result of what
19 your daughter told you, as a result of, but not what she told
20 you. You can tell us what you did next.

21 A I called the police to report that my daughter had
22 been injured.

23 MR. BARKE: Objection.

24 THE COURT: Overruled.

25 THE WITNESS: They arrived on scene, and at this

1 point I'd like to introduce into evidence the police report
2 that I sent you this morning regarding the May 26th --

3 BY THE COURT:

4 Q Okay. I think this is -- you'd like to have this
5 marked as Plaintiff's Exhibit No. 5?

6 A Yes, Your Honor. It could be.

7 MR. BARKE: Objection.

8 THE COURT: Sustained.

9 THE WITNESS: On what grounds?

10 THE COURT: It's hearsay.

11 THE WITNESS: I can testify as to how I got the
12 police report, and -- is that what you need for me to introduce
13 it into evidence?

14 THE COURT: That's not good enough, sir. It's still
15 hearsay, and it's also not, it's also not authenticated.

16 THE WITNESS: Well, I don't have a police officer.
17 So, I can tell you that I can, how I obtained the police
18 report. I can show you e-mails that I sent to Montgomery
19 County that helped me obtain that police report.

20 BY THE COURT:

21 Q Okay. It's still not authenticated. The objection
22 is sustained.

23 A Would it help if I sent Your Honor the e-mail
24 exchange from Montgomery County police wherein they attach this
25 report?

1 Q No, sir. It would not.

2 A On what grounds? It's coming from Montgomery County.

3 Q I understand that, sir. I've sustained the
4 objection.

5 A Your Honor, can I have a minute?

6 Q Yes. Sir? Mr. Patel?

7 A Yes, Your Honor.

8 Q Okay. The camera was just pointed at some notes. I
9 didn't read them, but --

10 A Oh.

11 Q -- those are your private notes. You probably don't
12 want me to see them. Or anybody else.

13 A Thank you. Your Honor, wouldn't this fall under the
14 public records and reports exception to the hearsay rule?

15 Q I don't believe that that is a rule of authentication
16 though.

17 A As I'm reading the rule right now, it says, except as
18 otherwise provided in this paragraph, in memoranda, report,
19 records, statements, or date of compilation made by a public
20 agency, which the Montgomery County Police would be,
21 (unintelligible) matters observed pursuant to a duty imposed by
22 law as to which matters (unintelligible) duty to report for
23 civil actions and when offered against the state in criminal
24 actions, which I don't think applies here. I think the hearsay
25 exception with public records applies here, and I can

1 authenticate it, how I got it, from, by providing the e-mail
2 exchange directly from the Montgomery County e-mail address.
3 The same one that you have.

4 Q Mr. Barke --

5 A With this thing --

6 MR. BARKE: May I be heard, Your Honor?

7 THE COURT: Well, let me -- Mr. Patel, were you
8 finished?

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: Okay. Mr. Barke, yes, sir.

11 MR. BARKE: Thank you, Your Honor. The public
12 records' exception applies to activities of the agency.
13 Internal memoranda, statements of policy, things of the like.
14 This here is a police report. Your Honor is well aware of what
15 a police report is. It's basically out of court statements
16 made here by the plaintiff. Also it contains multiple loops in
17 that it has statements by the plaintiff of what the child has
18 said, which don't otherwise fall under any recognized
19 exception.

20 THE COURT: Okay. I'm going to review Exhibit No. 5
21 for the purpose of ruling on the objection. Okay. I'm going
22 to sustain the objection because, first of all, it sounds to me
23 as if the objection is a hearsay objection, not an
24 authentication objection. So, it seems to me that what Mr.
25 Patel is doing is offering whatever statements may be resident

1 in this report for the truth of the matter, and so you would
2 have to have -- the hearsay exception -- you'd have to have
3 exceptions for all layers of hearsay.

4 First of all, it's -- most of the statements that are
5 in here are Mr. Patel's statements themselves. So, those are
6 not admissible necessarily as hearsay exceptions. They're his
7 own statements. It's not clear to me that the child made any
8 statements in this, and it seems to me that, in terms of
9 observations, that observations are very limited. It seems to
10 me that the only thing that really amounts to an observation is
11 the third to last paragraph. I'm sorry. The second to last
12 paragraph on page 3, the statement, the paragraph that says,
13 Officer Hall attempted to talk to [REDACTED], but she was so upset
14 and afraid of police she refused to talk. Nishith attempted to
15 show the scratches on [REDACTED] to Officer Hall, but [REDACTED]
16 pinned her arms to her side and pulled her shirt down so that
17 Nishith could not lift up her shirt and show her the scratches.

18 So, it seems to me that that is something that is
19 within the officer's ability to observe. So, in that regard, I
20 will allow the report in, but not for anything else.

21 THE WITNESS: And just, Your Honor, if I can offer
22 the present sense impression exception, as well as
23 (unintelligible) mental, emotional, physical condition
24 exception to the hearsay rules. They were -- those statements
25 were made within a half hour, 45 minutes of when I saw the

1 physical injuries to my child, and because of those two
2 reasons, I think that statement should be admitted into
3 evidence also.

4 BY THE COURT:

5 Q But, sir, it's still your statements, and I'm not
6 going to allow that. So, please move on.

7 A (Unintelligible) Your Honor.

8 Q Okay, but you can -- if you want to tell us what you
9 told the police, you may do that, but I'm not going to allow in
10 this police report.

11 A Again, I think it qualifies under the present sense
12 impression, excited utterance, as well as the then existing
13 mental state, mental condition exception to the hearsay rule.

14 Q Okay. We'll have to agree to disagree. Those would
15 apply to your mental state and your excited utterances. Those
16 are not relevant here. The objection is sustained. Please
17 move on.

18 A Are you -- just to clarify, Your Honor, are you
19 also -- are you allow the police report in, except you're going
20 to redact some statements?

21 Q I'm only allowing it as to that paragraph that I
22 read. Otherwise it's excluded. So, it's admitted in part and
23 declined in part.

24 (The document marked for
25 identification as Plaintiff's

1 Exhibit No. 5 was received in
2 evidence.)

3 A Since we're doing public records and hearsay
4 exceptions, I'll just move onto the second report that I
5 submitted to you this morning.

6 Q Is that Exhibit No. 3? The one --

7 A The police report.

8 Q From July 13th?

9 A Yes, Your Honor.

10 Q Okay. Are you moving that into evidence?

11 A I am, Your Honor.

12 MR. BARKE: Objection.

13 THE COURT: And the basis of the objection is?

14 MR. BARKE: Number one, it's remote. It has to do
15 with events alleged to have occurred on July 13th, 2019.
16 Secondly, it contains multiple statements that are out of court
17 statements being offered to prove the truth of the matter
18 asserted. And number three, it hasn't been properly
19 authenticated. We don't know if this is a business record
20 under 5-803(b)(6), and I haven't been put on notice of it, in
21 any event, within the proper time constraints.

22 THE COURT: Okay. As to this record, there is an
23 authentication objection. Let me review the document for the
24 purpose of ruling on the objection. I do not see any business
25 record certification that accompanies this. What is the basis

1 for authentication, sir?

2 THE WITNESS: Oh, so there's not a hearsay objection?
3 It's just an authentication objection?

4 THE COURT: It's both, but I'm going to take up --

5 THE WITNESS: Well, I --

6 THE COURT: -- the authentication objection first.

7 THE WITNESS: Again, I can provide you the e-mail
8 exchange. This came directly from a Montgomery County employee
9 pursuant to my request to obtain that record. I can forward
10 the, I can forward the judge the record of the e-mail exchange.

11 BY THE COURT:

12 Q Okay, but did you --

13 A Would that help --

14 Q Did you notify Mr. Barke that you would be seeking to
15 introduce this as a business record?

16 A It's a public record, and I don't think it's a
17 business record.

18 Q Okay. I needed the Court rules. These are not the
19 Court rules.

20 THE CLERK: Oh, sorry.

21 THE COURT: I needed the Court rules. The paperback
22 books on my desk.

23 THE CLERK: Oh, okay.

24 THE COURT: Volume one.

25 THE CLERK: I understand.

1 THE COURT: Okay. I'm going to look at the
2 authentication rules in a moment.

3 BY THE COURT:

4 Q Mr. Patel, the camera is pointed at your notes again.

5 A My apologies. (Unintelligible).

6 Q Okay.

7 A Your Honor?

8 Q Okay, yes?

9 A If I may be permitted, I'd like to forward you the e-
10 mail exchange for the Montgomery County employees wherein they
11 send me directly the police report, and I'd like that to be
12 forwarded to you in camera because it contains other
13 confidential information that I don't think the defendants are
14 entitled to.

15 Q Okay. I don't do, I don't do things in camera under
16 those circumstances. Tell me -- I'm looking, sir, at rule 5-
17 901(b)(7), which is the authentication requirements for non-
18 self-authenticating documents. This is what appears to be the
19 public record portion of the authentication rule. Can you tell
20 me how this would come under that? If at all.

21 A Oh, yes, and I think that perfectly fits what I'm
22 offering, Your Honor, that I can forward you evidence of the e-
23 mail exchange between me and the Montgomery County Police,
24 which show the chain of custody, you know -- it clearly shows
25 that the police report came from the Montgomery County Police

1 Department directly to me.

2 Q Okay, but, see, that's the problem, is that e-mail
3 itself is hearsay. So, what other evidence do you have that it
4 comes within this rule?

5 A I don't think it's hearsay, Your Honor, because that,
6 that communication is from --

7 Q Is it just an e-mail to you, sir?

8 A It's an e-mail exchange wherein I provide the
9 information to the Montgomery County Police Department. They
10 tell me here's a form, you need to fill it out. I fill out the
11 form, and they send me the report.

12 THE COURT: Okay. Mr. Barke?

13 MR. BARKE: Your Honor, I'm not aware of that means
14 by which to procure (unintelligible) or a police report from a
15 Montgomery County police. That said -- in other words, I
16 don't -- I'm not aware of them just e-mailing them, e-
17 mailing --

18 THE WITNESS: We're in a pandemic, Your Honor.

19 THE COURT: Hold on. Please --

20 THE WITNESS: Okay.

21 THE COURT: Please don't interrupt Mr. Barke. You
22 may continue, Mr. Barke.

23 MR. BARKE: In any event, I believe notification was
24 required under 5-902(b). There's no custodian of record
25 certification, and I certainly wasn't -- to answer the Court's

1 question, I wasn't placed on notice of any intention to use the
2 item that's been marked as Plaintiff's No. 3 as -- or to move
3 to admit the item as business records, as a business record
4 that would fall within the exception in any event.

5 THE COURT: Okay. I don't have any evidence that it
6 falls within, that the foundation for it being an authenticated
7 public record under 5-901(b)(7) has been met. So, the
8 objection on that basis is sustained. Please move on. And
9 then, in terms of the hearsay objection, you know, again I'll
10 look at it for the purpose of ruling on the objection as an
11 alternative ground. I mean, again, there's a number of
12 statements in here that are the defendant's, the plaintiff's
13 statements to the police. You know, I think that they're self-
14 serving. And so, for a number of reasons, I just don't think
15 it's, it qualifies as a hearsay objection either, under hearsay
16 either. So, please move on.

17 THE WITNESS: I'd like to state my objection on the
18 record. I don't think that's the correct ruling.

19 BY THE COURT:

20 Q Okay. I understand, sir. That's an alternative
21 ground. We can agree to disagree. Please move on.

22 A I do think that the admission of this police report
23 is critical to my case because it shows my present state
24 impression of what was going on at the time, why I went to the
25 police, and what I told the police at the time. The injury to

1 her foot was, I think, a criminal act, and I think it's
2 critical that this court recognize that I actually went to the
3 police to report it at the time I saw it, or soon after I saw
4 it.

5 Q Okay. Sir, you can testify to that. Just because
6 it's, this document isn't coming into evidence, you can testify
7 to that. So, if you'd like to --

8 A (Unintelligible) Mr. Barke, I sent it to him this
9 morning via the same method that (unintelligible) this morning.

10 Q I understand. The objection is sustained. Please
11 move on.

12 A Again, I state for the record that I disagree with
13 the Court's ruling.

14 Q I understand, sir. Please move on.

15 A Your Honor, Your Honor, a moment, because I need to
16 figure out how to continue because you're not allowing me to
17 admit a police report. Can I offer it as, not for the truth of
18 the matter asserted, but for the fact that I actually filed the
19 police report?

20 MR. BARKE: Objection.

21 THE COURT: What's the basis for the objection, Mr.
22 Barke?

23 MR. BARKE: Your Honor, his testimony -- I'm
24 concerned that if the report gets into the record as an
25 admitted item just for the purpose of him going, of the

1 plaintiff going to the police, it could lead to eyes reading
2 the report beyond what's admissible. I will stipulate that,
3 sometime in July of 2019, Mr. Nishith Patel went to the police
4 and made a police report.

5 BY THE COURT:

6 Q Okay. Does that solve it, Mr. Patel?

7 A Your Honor, I really think that the police report
8 itself should be admissible as a present state impression of my
9 mind.

10 Q Okay. Well, I think we've been over this.

11 A (Unintelligible).

12 Q Okay. Your present sense impression is not relevant
13 to this. If you don't want to accept the stipulation that Mr.
14 Barke has offered, you don't have to. So, what would you like
15 to do at this point?

16 A I'm asking the Court to admit the police report into
17 evidence as, not for the truth of the matter asserted, but for
18 the fact that I made a police report.

19 Q Okay. I'm not going to do that, sir. If you don't
20 want the stipulation, you don't have to have it, but I'm not
21 admitting the police report. We've already been over that.

22 A All right. I will agree with the stipulation, with
23 the objection that I think that's still the incorrect way to
24 solve this issue.

25 Q Okay. You've accepted the stipulation. So, the

1 parties stipulate that in July of 2019, Dad went to the, father
2 went to the police.

3 THE COURT: Was that the extent of the stipulation,
4 Mr. Barke?

5 MR. BARKE: He went to the police and he made a
6 report to the police.

7 THE COURT: Okay.

8 BY THE COURT:

9 Q You may continue, sir.

10 A On or about May 21st, 2020, when my daughter arrived
11 to my house, she arrived with vigorous scratching on her
12 stomach area.

13 Q You may continue.

14 A On or about May 26th, 2020, my daughter arrived to my
15 house with a cut on her hand, which I provided the exhibit for.
16 I've been engaging with law enforcement to try to pursue these
17 claims, to try to pursue the causes of these injuries, as
18 you've been aware, as you've been made aware. Not all of the
19 protective order contained correct information as to the
20 perpetrators of the injuries. Partly, or I should say wholly
21 in part -- wholly because I was informed of --

22 MR. BARKE: Objection.

23 THE WITNESS: -- perpetrators that did not cause
24 injuries.

25 MR. BARKE: Objection.

1 THE COURT: Okay. What's the basis of the objection?

2 MR. BARKE: The basis of the objection is that the
3 testimony is calling for hearsay in that the witnesses say that
4 he was informed that, and there's no foundation laid as to what
5 the basis of the information is.

6 THE COURT: Okay. Sustained.

7 THE WITNESS: I made -- I filed for protective orders
8 based on the information I had at the time, that I found them.
9 Since then, I modified those protective orders as new
10 information has been revealed to me. Regardless of who did the
11 injury, one thing, from my perspective, is certain, is that
12 those injuries are occurring at defendant's brother's household
13 at 22025 Broadway Avenue.

14 MR. BARKE: Objection.

15 THE COURT: Sustained.

16 THE WITNESS: On what grounds?

17 THE COURT: Speculative.

18 THE WITNESS: They are happening -- after I picked
19 up -- they're happening before I pick her up.

20 MR. BARKE: Objection.

21 THE COURT: Sustained.

22 BY THE COURT:

23 Q You can tell us, sir, what you see, but not what your
24 opinion is.

25 A What I see is that she comes to -- when custody is

1 handed over to me, she's come to me with injuries that I've
2 described. The four injuries that I've described. One to the
3 chest, scratching to the chest, scratching to the stomach.
4 Someone cut her foot. Someone pierced her, cut her hand. They
5 came -- she came to me with those injuries.

6 Q Okay. Please move on.

7 A On or about May 27th or 28th -- I do not, I do not
8 remember the exact date -- I filed for my first emergency
9 protective order, emergency motion for custody. It was denied,
10 as Your Honor knows. I filed for one a couple of days later.
11 That was also denied, as Your Honor knows. I've called Child
12 Protective Services per order of the Court, and just because I
13 thought that was what I needed to do. I've been to the
14 commissioner's office. I've been to the police department.

15 On June 5th, 2020, I filed a motion with the Court,
16 which I forwarded to the defendant and also defendant's
17 attorney. For whatever reason, that motion was not docketed.
18 I filed a substantially similar motion, which Your Honor has
19 before her, which is the subject of this hearing, on 6/10. It
20 was docketed on 6/11. This is the first time I've been given
21 the chance to explain why I want the emergency custody that I
22 sought. After two and a half weeks, maybe more. By filing
23 motion after motion with the Court.

24 On the other hand, when the defendant mother filed a
25 motion, she got a hearing the next day and an emergency custody

1 order. The sheriffs took away my daughter and took her back to
2 the house where she's been received all this physical abuse. I
3 don't think I've been given a fair shot. I don't think the
4 Court has been given me a fair shot, or the police. I feel
5 like there's something going on where my child's best interest
6 are not being heard. She's getting physically abused at that
7 household --

8 MR. BARKE: Objection.

9 THE COURT: Sustained.

10 THE WITNESS: -- and nobody's trying to stop it.

11 THE COURT: Hold on. Sustained. I'm going to strike
12 the statement, she's getting physically abused at that
13 household. It's speculative.

14 BY THE COURT:

15 Q Anything else, sir?

16 A May I refer to my notes?

17 Q Yes.

18 A Per my --

19 Q You may --

20 A Per my amended motion.

21 Q You may refer to your notes if you need to, or your
22 motion if you need to.

23 A I also state for the record that within, I think, an
24 hour after defendant's attorney requested an emergency motion,
25 Your Honor held a hearing, and shortly thereafter ruled that

1 the custody of my child should be returned to her mother.

2 Literally within an hour or two. Whereas I was trying to get a
3 hearing for two and a half weeks, and I got no hearing or a
4 custody order.

5 Q Anything else?

6 A I also state, I also state for the record that me and
7 my child have an excellent relationship and I've provided Your
8 Honor with a picture that I'd like to introduce into evidence.

9 Q Okay. Hold on. We'll get those pictures.

10 A Oh, and before we do the pictures, may I just
11 introduce another exhibit that I e-mailed to you this morning?

12 Q Okay. Which is that?

13 A It's the appeals I made regarding the District
14 Court's ruling on the protective order. The full protective
15 order.

16 Q Yes. Okay. So --

17 A (Unintelligible) that I did file appeals based on the
18 lack of ability, my ability to cross-examine the witnesses.
19 Also because I feel like I'm in the threshold, the threshold
20 for granting those temporary protective orders was whether
21 reasonable grounds existed, and there was no rebutting evidence
22 from any of the respondents. And, despite that, the judge
23 still granted, still denied my protective orders. So, that's
24 why I filed appeals, and I'd like to introduce that into
25 evidence.

1 That's what I just received.

2 THE COURT: Okay. That's correct. So, this is
3 Plaintiff's No. 10. For the reasons I've stated, this is not
4 admitted. Okay.

5 BY THE COURT:

6 Q Anything else, Mr. Patel?

7 A I think, Your Honor, I'd like to just introduce that.
8 I want to state for the record that me and my daughter have an
9 excellent relationship. During the last two and a half weeks
10 that she was with me, we had a great time. I was able to care
11 for her morning to night for two a half weeks without any
12 issues. She loves spending time with me. I love spending time
13 with her. We did a lot of reading, a lot of activities, we
14 played games together, and we went to the park, we hiked, she
15 met some friends, and the picture that I want to introduce into
16 evidence shows the power of how great our relationship is. We
17 don't take a lot of pictures, but the first one is the two of
18 us having burger sandwiches, veggie burger sandwiches at a
19 picnic.

20 Q Okay. I'm showing what's been marked as Plaintiff's
21 Exhibit No. 6. Is that what you're talking about, sir?

22 A Yes, Your Honor.

23 THE COURT: Okay. Any objection, Mr. Barke, to this?

24 MR. BARKE: No objection.

25 THE COURT: Okay.

1 MR. BARKE: No objection.

2 THE COURT: No. 6 is admitted.

3 (The photograph marked for
4 identification as
5 Plaintiff's Exhibit No. 6
6 was received in evidence.)

7 THE COURT: Okay. Then there's one more photo.

8 THE WITNESS: Oh, you see her holding a Kindle, and
9 she read the word, fantastic, all by herself without any help
10 from me.

11 THE COURT: Okay.

12 THE WITNESS: So, we memorialized that.

13 THE COURT: This is Plaintiff's No. 7. Okay. Is
14 that what you're talking about, sir?

15 THE WITNESS: Yes, Your Honor.

16 MR. BARKE: No objection.

17 THE COURT: Okay. Plaintiff's No. 7 is admitted.

18 (The photograph marked for
19 identification as Plaintiff's
20 Exhibit No. 7 was received in
21 evidence.)

22 BY THE COURT:

23 Q Anything else, sir?

24 A We memorialized that, and we celebrated, and every
25 day we do a lot of fun activities together, and I do a great

1 marital settlement agreement, which was reached, I believe, in
2 May of 2018. That was subsequently incorporated, but not
3 merged, into a judgment of absolute divorce. Generally
4 speaking, what that did was that it awarded 60% of the time
5 that child had with parents with mother and 40% with father.
6 And, generally speaking, my understanding is that it's a, what
7 we call a 4/5 schedule, which is that in one week the child is
8 with mother five days out of seven, and in the next week the
9 child is with mother four days out of seven, which means that
10 in one week the child will be with father two days out of seven
11 and with mother three days out of seven.

12 So, what happened was that around/about Memorial Day,
13 father, Memorial Day of this year, father refused to return the
14 child to mother, and what we see is that -- and let me say
15 generally, in terms of credibility. Last week, when I heard
16 mother's testimony, I credited her testimony. I continued to
17 credit her testimony. I think that today father has been less
18 credible.

19 So, what you can see from Plaintiff's Exhibit No. 4
20 is a chain of e-mails in which mother continues to try, between
21 May 29th and June 4th, to get the child back, and what ends up
22 happening is that the child, my understanding is the child did
23 not return to mother's care until Friday afternoon, June 12th,
24 and this was after the Court issued a second emergency order,
25 asking the sheriffs to use all reasonable force to, reasonable

1 time, maybe May 26th. Maybe it would -- the emergency motions
2 came after the call to the police. Father says he called CPS.
3 He says they wouldn't investigate. That's where I found his
4 testimony to be less than credible. CPS's job is to
5 investigate. I am inferring that what happened is that, from
6 what he says, is that they did not do what he wanted them to
7 do, but that doesn't mean they didn't investigate or do
8 something.

9 We then have -- and these were exhibits that I took
10 into evidence last week. These exhibits were attached to
11 Docket Entry No. 48, which was mother's emergency motion, and I
12 took these into evidence last week. Copies of Judge Del Pino's
13 orders, denying on June 8th four domestic violence protective
14 orders that Mr. Patel had filed on June 8th, and the reason for
15 the denial was all the same. Petitioner could not meet
16 required burden of proof. Petitioner could not meet required
17 burden of proof. It's the same in all of them. Petitioner
18 could not meet required burden of proof, and then the same for
19 the last one.

20 So, I believe that, as Mr. Barke told us last week,
21 these were issued at the temporary phase, which Mr. Barke was
22 correct last week, is a fairly low standard of proof. It's
23 reason to believe that there's been some abuse. Today, Mr.
24 Patel has explained that the reason for having filed those
25 domestic violence protective orders were scratches to the

1 describe father's behavior over this 18 days is an egregious
2 attempt at self-help, which continued and continued and
3 continued.

4 We know that that attempt at self-help during that
5 time had negative effects on the child. We know that from the
6 26th of May, when the police came -- and this is Plaintiff's
7 Exhibit No. 5. That the police tried to talk to the child.
8 She was so upset and afraid of the police that she refused to
9 talk, pinned her arms to her side, and would not lift up her
10 shirt.

11 So, obviously the child was upset that day. We know
12 also that on the 12th of June, when mother was here testifying,
13 that she said that the night before she had, when she had gone
14 to the parking lot of the father's residence at the sheriff's
15 direction in order to try to get the child back with the
16 sheriff's assistance, that she -- I'm sorry. (Unintelligible)
17 I think I have the wrong date. I think it was June 10th that
18 she had gone to the apartment to try to see her daughter.
19 Heard the daughter crying and left because she didn't want to
20 further upset the child. Heard the daughter crying in response
21 to hearing her mother's voice, I think it was. So, she left.
22 She didn't want to upset the child.

23 And then we now know that, in the early morning hours
24 of June 13th, that father has secured for himself another
25 interim protective order, this is Defendant's No. 1, against

1 or neglect on the behalf of mother's family (unintelligible)
2 the child, I simply do not believe that there has been. I look
3 at these pictures, Exhibit No. 2 and Exhibit No. 2. Exhibit
4 No. 1 is apparently a picture from a year ago. It looks like a
5 small scrape or cut or abrasion on the heel of the child's
6 right hand. Mother's explanation of it is consistent with it.
7 It's an accident from having played with a toy, and I credit
8 that explanation. It certainly does not amount to child abuse
9 or neglect.

10 Plaintiff's No. 2 is the foot. You know, this again
11 are minor, minor abrasions. I can imagine that this could have
12 been the result of wearing shoes that were rubbing or flip
13 flops that were rubbing or a bike of some kind. It's certainly
14 not evidence of abuse or neglect.

15 As to the scratches, you know, again, father is
16 speculating when he says that's the result of abuse or neglect.
17 There are a number of reasons a child could have scratches, if
18 there were any, including that she was itching due to an
19 allergy or had eaten something that was causing her to have an
20 allergic reaction or any number of things that have nothing to
21 do with abuse and neglect, if they were there at all. So, I do
22 not believe that there has been evidence of abuse and neglect
23 by mother's family. I am concerned as to the impact this has
24 had on the child, father's actions have had on the child.

25 In terms of the other custody factors, you know, many

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

-----X
:
NISHITH PATEL, :
:
Plaintiff, :
:
v. : Family Law No. 149996
:
KRISHNA N. PATEL, :
:
Defendant. :
-----X

HEARING

Rockville, Maryland

July 16, 2020

DEPOSITION SERVICES, INC.
12321 Middlebrook Road, Suite 210
Germantown, Maryland 20874
App. 120
(301) 881-3344

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

-----X
NISHITH PATEL, :
 :
 :
 Plaintiff, :
 :
 :
 v. : Family Law No. 149996
 :
 KRISHNA N. PATEL, :
 :
 :
 Defendant. :
 :
-----X

Rockville, Maryland

July 16, 2020

WHEREUPON, the proceedings in the above-entitled
matter commenced

BEFORE: THE HONORABLE ANNE K. ALBRIGHT, JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

MR. NISHITH PATEL, Pro Se
18005 Cottage Garden Drive, No. 301
Germantown, Maryland 20874

FOR THE DEFENDANT:

BRIAN M. BARKE, Esq.
Maxwell Barke and Zuckerman, LLC
51 Monroe Place, Suite 806
Rockville, Maryland 20850

1 yourself for rules on judges 18-102.11 which would permit you
2 to recuse yourself on your own sua sponte motion, but you did
3 not do that. I find it highly suspicious that it was only
4 after I filed my first emergency motion for disqualification
5 that you then made yourself available to hear these appeals
6 today despite your prior position that you were unavailable
7 until August 10th, 2020.

8 As you know, I do not think you are fair. I do not
9 think you are impartial. I do not think you are truly
10 interested in looking for the interests of my child and that
11 you are interested in serving justice. For that, I would like
12 to ask you some questions.

13 THE COURT: Sir, please just make argument.

14 MR. PATEL: Well, I need to -- as you know, I think
15 you have an improper relationship with Mr. Barke, so I want to
16 ask you questions regarding this.

17 THE COURT: You may ask me questions briefly, but
18 it's 12:25, but, yes, go ahead, sir.

19 MR. PATEL: How long have you known Mr. Barke?

20 THE COURT: I'm sorry?

21 MR. PATEL: How long have you known Mr. Barke?

22 THE COURT: I know Mr. Barke professionally, and I've
23 known him -- I've been a judge for eight years or eight and a
24 half, and I knew him before that as a lawyer. I knew of him.
25 I don't remember how many cases we had as opponents. I

1 remember a case I had with his partner as an opponent I think.
2 I believe that we are members of some of the same professional
3 associations, like bar associations. I don't know how long
4 I've known of him, at least eight years.

5 MR. PATEL: And what is your opinion of him?

6 THE COURT: Mr. Patel, this is not the appropriate
7 way to proceed. I'm not going to be cross-examined by you,
8 sir.

9 MR. PATEL: As you know, I made the allegation that I
10 think you have an improper relationship (unintelligible) to
11 allow us to proceed in this case and give him (unintelligible).

12 THE COURT: Is there anything else you'd like to say
13 by way of argument?

14 MR. PATEL: Well, this is part of my case
15 (unintelligible).

16 THE COURT: I'll give you one more opportunity, sir.
17 Anything else before I give the floor to Mr. Barke?

18 MR. PATEL: I want to know what context you know him
19 outside of your professional relationship with him.

20 THE COURT: Okay, let Madam Interpreter --

21 MR. BARKE: Your Honor, if I may, I'm going to
22 interpose an objection.

23 THE COURT: Okay. I've told Mr. Patel. I've
24 answered your question. Your argument is concluded, thank you.
25 The objection is sustained.

1 confident that I will be able to act in a fair and impartial
2 manner going forward, and so, for all of those reasons, the
3 motion will be denied.

4 MR. PATEL: (Unintelligible) address my point about
5 not crediting my testimony that was not rebutted by any
6 evidence.

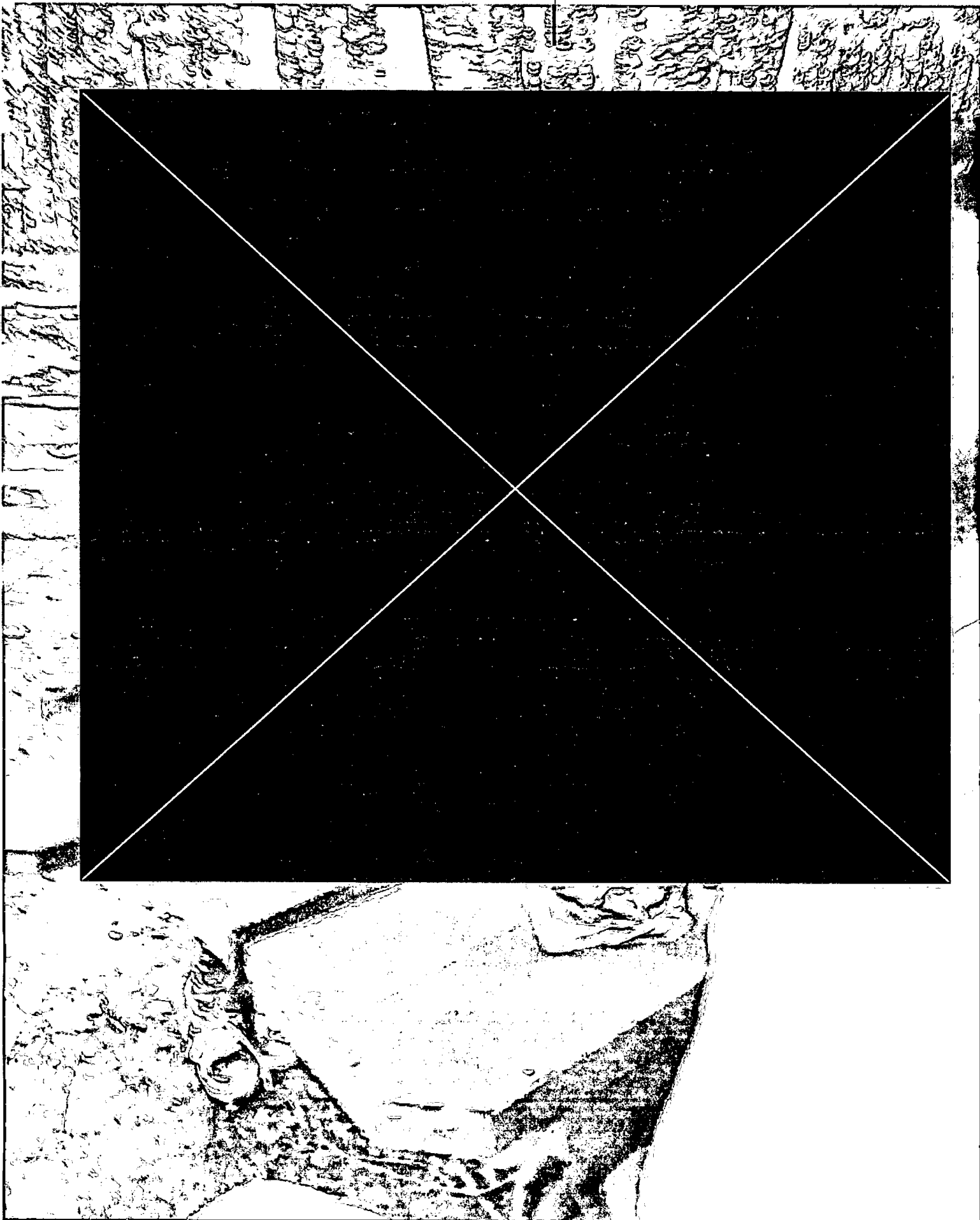
7 THE COURT: I'm sorry, sir?

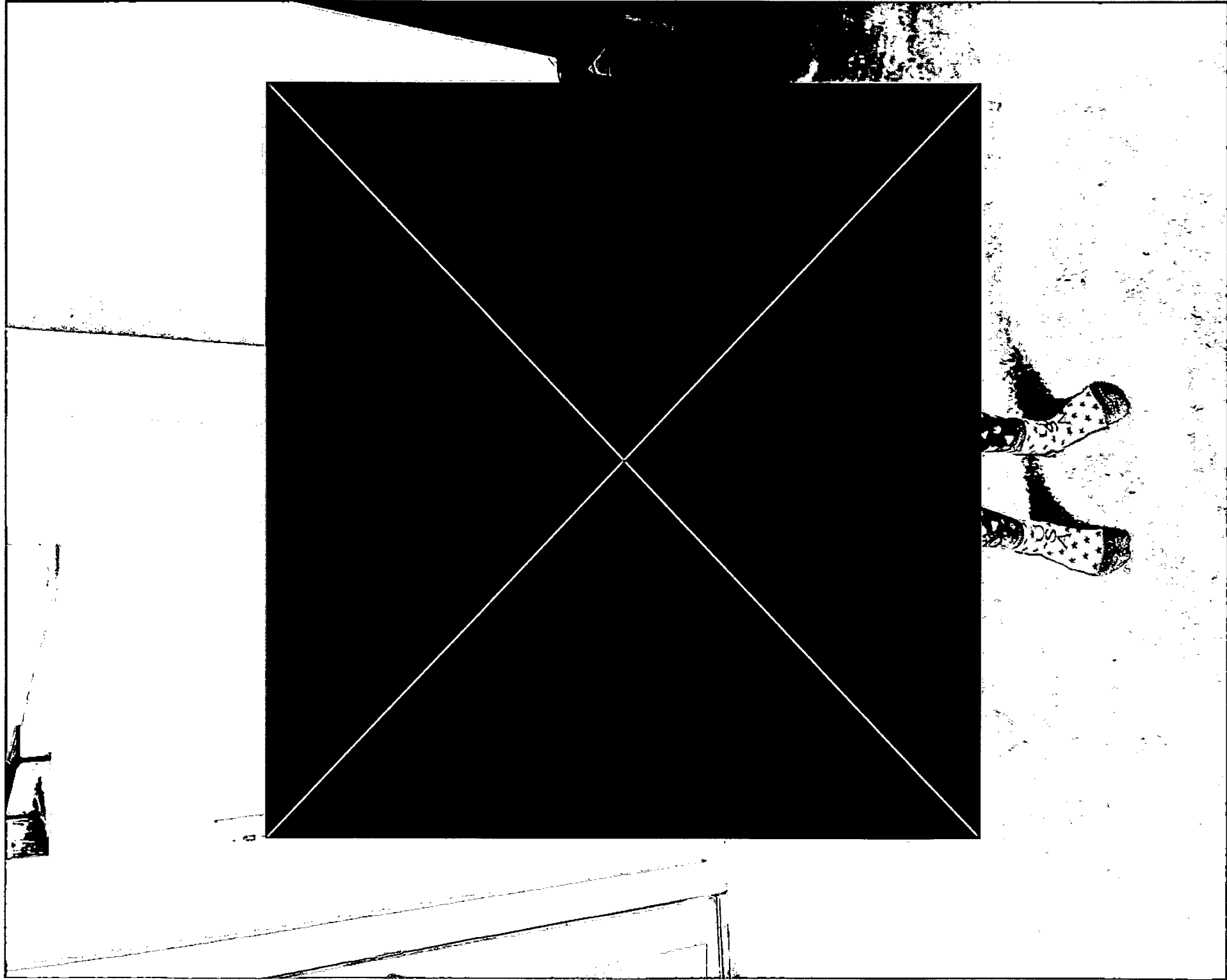
8 MR. PATEL: I'd like you to address my argument about
9 you not crediting my testimony that was not rebutted by any
10 evidence from the defendants' side. For example, the fact that
11 I did contact Child Protective Services was not rebutted by
12 anyone, and, yet, you did not credit that testimony.

13 THE COURT: Sir, as the fact finder, the fact finder
14 is entitled to believe or disbelieve any evidence or any
15 testimony, whether it's rebutted or not and so, as I've
16 indicated and the record reflects, I made determinations that
17 are already in the record, so I'm not going to, as I said,
18 retread the record that I've already made in this case, but --

19 MR. PATEL: I'm not --

20 THE COURT: Sir, I'm not going to argue with you.
21 I've answered your questions. So in terms of the motion, Madam
22 Clerk, what you should indicate is that for the reasons on the
23 record now, in the family law case, the emergency motion that
24 was filed, the amended emergency motion for disqualification --
25 do you have a docket number on that yet?







Date: 06/09/2020 11:07

Page: 1 of 3

Report #: 190033364 Montgomery County Police
Report Date: 07/13/2019 20:30 Start Date: 07/13/2019 19:37
End Date:

190033364
190033364

Summary: CHILD ABUSE

Report Type: 0434 AGG ASSLT OTHER WPN OTHER DOMEST

Case Status: 190033364 02 - Open

Incident Location

Address: 22025 BROADWAY AVE
Intersection:
CLARKSBURG, MD 20871
Response Area: 5N3 - Reporting Area: 466 - Lat: 39.2167441 - Long: -77.285367

Addl. Info:

Incident Offenses

#1 Original Report 3802 FAMILY OFFENSE - CRUELTY TOWARD CHILD

Remarks:

MO:

Method: Cut/Tear
Means: Unknown
Entry: Unknown/Other
Exit: NOT APPLICABLE
Trademark: None/Unknown

#2 Original Report 1302 ASSAULT - AGGRAVATED - FAMILY-OTHER WEAPON

Remarks:

MO:

Method: Cut/Tear
Means: Unknown
Entry: Unknown/Other
Exit: NOT APPLICABLE
Trademark: None/Unknown

Officers Involved

Approving CPL SHAUN SANTOS - MCPD - 1369 - Original Report

Reporting PO3 GREGORY PAGONIS - MCPD - 2971 - Original Report

Incident People

Parent / Guardian NISHITH PATEL

Sex: M Race: A DOB: [REDACTED] Age: 36 Original Report

100750868
100750868

Address: Address Protection - User does not have access to view address. (Date of Info: 04/30/2019)

Business Phone: [REDACTED] (Phone Date of Info: 04/22/2017)

Hgt: 510, Wgt: 150, Black Eyes, Black Hair, Medium Skin (Date of Info: 04/22/2017)

Distinguishing Features: Mole Nose

Victim

Sex: F Race: W DOB: [REDACTED] Age: 4 Original Report

100933322
100933322

Address: [REDACTED] (Date of Info: 07/13/2019)

Injuries: Apparent minor injury

Date: 06/09/2020 11:07

Page: 2 of 3

Parent / Guardian KRISHNA PATEL

100933324

Incident Businesses	
SOCIETY	*14*
Address: DON'T ADD ANY ADDRESSES TO THIS VICTIM	14

Original Report Victim

Associated LEA Cases	
LEA Case Number:	LEA Case Summary:
190033364	MCPD, Review Status: Review, Case Status: Open 07/13/2019, Workgroup: SDPAT
Assigned To: No Officer Assigned	

Date: 06/09/2020 11:07

Page: 3 of 3

Incident Narrative

Reporting PO3 GREGORY PAGONIS - MCPD, ID # 2971 **1** **07/13/2019** **20:30**

On 07-13-2019 at 1936 hours, the writer responded to the 5D station located at 20000 Aircraft Drive, Germantown, MD 20874 to speak with a citizen about child abuse. Upon arrival the writer spoke to Nishith PATEL who advised the following.

Nishith, and his ex-wife, Krishna PATEL, are the parents of four year old [REDACTED] PATEL. [REDACTED] lives with Krishna about 60 percent of the time and Nishith the other 40 percent. Also residing with Krishna, is [REDACTED] grandfather,

In May 2019, Nishith was told by his daughter that [REDACTED] was abusing her by slapping her in the face. Nishith applied for a protection order on behalf of [REDACTED], but the order was not granted by a judge during the court hearing.

This week Nishith has become increasingly concerned about [REDACTED] s welfare while she is staying with her mother and grandfather. Nishith noticed a small circular scab on his daughter's foot and asked her about it. She said she was bitten by a spider, but when asked again she said her uncle cut her with scissors. She then later changed her story and told her father that her grandfather is the one that cut her. She told her father that the family members in the household put duct tape on her arms and rip it off. She said they make her sleep underneath her cousin's bed. Nishith told the writer that they are also making her say strange things. He believes it may be part of a ritual they are performing or trying to perform. When Nishith confronted Krishna about what was going on, she denied anything occurring and stated she believes he is making her say these things. Nishith advised that his daughter has been reluctant about providing information, as she may be afraid to get her family in trouble.

Nishith was last with his daughter on 07-11-2019, when he returned her to her mother's care. When he reported the incident on 07-13-2019 at the station, he was the only one present, so the writer could not speak to [REDACTED]

The writer notified Cpl. Santos, 4M11.

The writer notified Det. Ledoux, 9Y27, of SVID.

The writer notified Ms. Holly of Child Protective Services.

Follow up investigation will be conducted by SVID.

Date: 06/05/2020 13:56

Page: 1 of 3

Report #: 200020927 Montgomery County Police
Report Date: 05/26/2020 18:47 Start Date: 05/26/2020 18:07
End Date:

200020927
200020927

Summary: CHILD ABUSE

Report Type: 0814 ASSAULT & BATTERY OTHER DOMESTIC

Case Status: 200020927 02 - Open

Incident Location

Address: 18005 COTTAGE GARDEN DR APT 301

Intersection:

GERMANTOWN, MD 20874

Response Area: 5N2 - Reporting Area: 448 - Lat: 39.1521453 - Long: -77.275635

Addl. Info:

Incident Offenses

#1 Original Report 1399 ASSAULT - 2ND DEGREE

Remarks:

Officers Involved

Approving SGT ROBERT KAMENSKY - MCPD - 943 - Original Report

Approving CPL SHAUN SANTOS - MCPD - 1369 - Original Report

Assisting PO3 KYLE BERRY - MCPD - 2686 - Original Report

Reporting PO1 ELAINE HALL - MCPD - 3170 - Original Report

Incident People

Parent / Guardian NISHITH PATEL

Sex: M Race: A DOB: [REDACTED] Age: 37 Original Report

Address: 1 [REDACTED]
[REDACTED]

Business Phone: [REDACTED] (Phone Date of Info: 04/22/2017)

Cell Phone: [REDACTED] (Phone Date of Info: 05/29/2020)

Cell Phone: [REDACTED] (Phone Date of Info: 09/28/2019)

Hgt: 510, Wgt: 150, Black Eyes, Black Hair, Medium Skin (Date of Info: 04/22/2017)

Distinguishing Features: Mole Nose

Victim [REDACTED] PATEL

Sex: F Race: W DOB: 01/16/2015 Age: 5 Original Report

Address: [REDACTED] (Date of Info: 07/13/2019)
[REDACTED]

Injuries: None

Parent / Guardian KRISHNA NISHITH PATEL

Other MAHENDRE PATEL

100750868
100750868

100933322
100933322

100750986

100996235

Date: 06/05/2020 13:56

Page: 2 of 3

Associated LEA Cases

LEA Case Number:

LEA Case Summary:

200020927

MCPD, Review Status: No Action, Case Status: Open 05/27/2020, Workgroup: SDPAT

Assigned To: No Officer Assigned

Date: 06/05/2020 13:56

Page: 3 of 3

Incident Narrative**Reporting PO1 ELAINE HALL - MCPD, ID # 3170****1****05/26/2020****18:47**

On 05/26/2020 Ofc. Hall was dispatched to [REDACTED] for the report of child abuse that occurred earlier. Upon arrival Ofc. Hall met with Nishith PATEL who advised the following:

Nishith advised he picked up his daughter, [REDACTED] PATEL, from her mother's house on the above date. [REDACTED] told her father that her uncle, [REDACTED] scratched her on her chest and stomach. [REDACTED] told Nishith that [REDACTED] told her not to tell anyone especially her father Nishith. [REDACTED] did not provide any details as to why or what happened that led to the scratches.

Ofc. Hall attempted to talk to [REDACTED] but she was so upset and afraid of police she refused to talk. Nishith attempted to show the scratches on [REDACTED] to Ofc. Hall but [REDACTED] pinned her arms to her side and pulled her shirt down so that her Nishith could not lift her shirt up to show her the scratches.

SVID was notified.

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

NISHITH PATEL,

Plaintiff,

vs.

Case Number 149996-FL

KRISHNA PATEL,

Defendant.

EMERGENCY ORDER

Upon consideration of Defendant/Mother Krishna Patel's Verified Family Law Section 9-105 Emergency Petition to Enforce Custody Order (DE #48), a remote hearing (via video) having been held on June 11, 2020, and for the reasons stated on June 11, 2020, it is this 11th day of June, 2020 by the Circuit Court for Montgomery County, Maryland,

ORDERED, that immediately upon the entry hereof, plaintiff, Nishith Patel, whose home address is 18005 Cottage Garden Drive, Apt 301, Germantown, Maryland 20874, shall cause the return of the parties' minor child, [REDACTED] Patel, born in January, 2015, to defendant, Krishna Patel, 22025 Broadway Avenue, Clarksburg, Maryland 20871; it is further

ORDERED, that any peace officer or law enforcement officer may use all reasonable and necessary force to cause the return of the child to defendant, Krishna Patel, as set forth in the preceding paragraph; and it is further

ENTERED

JUN 11 2020

Clerk of the Circuit Court
Montgomery County, Md.

App.134

53

Total Pages: (11 / 01 / 13)

Pg: 94 of 130

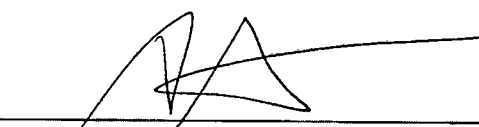
FILED: 02/18/2022

DOC: 4-2

USCA4 Appeal: 22-1102

ORDERED, that Plaintiff's access to, and contact with, the child, Nishith Patel, be and is hereby suspended pending further order of court; and it is further

ORDERED, that a further hearing in this matter shall be held on Monday, June 15, 2020 at 9:30 a.m. in Courtroom 4I, said hearing to occur remotely (via video), with notice of same to be emailed to the plaintiff, Nishith Patel at nishp2004@gmail.com, the defendant Krishna Patel at krishnish2010@gmail.com and the defendant's counsel, Brian M. Barke at barke@maxlaw.us.



Anne K. Albright, JUDGE
Circuit Court for
Montgomery County, Maryland

cc: Counsel of Record

Parties

ENTERED

JUN 11 2020

Clerk of the Circuit Court
Montgomery County, Md.

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

NISHITH PATEL, :
 Plaintiff, :
 vs. : Case Number: 149996-FL
 KRISHNA PATEL, :
 Defendant. :

THIRD EMERGENCY ORDER(Granting Temporary Emergency Custody to Defendant/Mother)

A remote hearing (via video) having been held on June 15, 2020 to consider Plaintiff's Amended Emergency Motion for Custody and Motion for Reconsideration (DE #55 and DE #56) and further consider Defendant's Verified Family Law Article Section 9-105 Emergency Petition to Modify Custody Order, or in the Alternative, Emergency Petition for Contempt and Enforcement of Custody Order (DE #48), testimony having been taken and evidenced received, and it appearing presently that an emergency continues to exist, and the for the reasons stated on June 15, 2020, it is this 16th day of June, 2020 by the Circuit Court for Montgomery County, Maryland, hereby

ORDERED, that to the extent that it seeks emergency relief, Defendant's Verified Family Law Article Section 9-105 Emergency Petition to Modify Custody Order, or in the Alternative, Emergency Petition for Contempt and Enforcement of Custody Order (DE #48) be and is hereby GRANTED; and it is further

ENTERED

JUN 17 2020

Clerk of the Circuit Court
Montgomery County, Md.

1

App.136

69

USCA4 Appeal: 22-1102 UCC: 4-2 FILED: 02/10/2022 Pg: 30 of 130 Total Pages: 113 of 113

ORDERED, that to the extent that they seek emergency relief, Plaintiff's Amended Emergency Motion for Custody and Motion for Reconsideration (DE #55 and DE #56) be and are hereby DENIED; and it is further

ORDERED, that all remaining requests for relief in Defendant's Verified Family Law Article Section 9-105 Emergency Petition to Modify Custody Order, or in the Alternative, Emergency Petition for Contempt and Enforcement of Custody Order (DE #48) and Plaintiff's Amended Emergency Motion for Custody and Motion for Reconsideration (DE #55 and DE #56) be and are hereby DEFERRED; and it is further

ORDERED, that this Order supersedes both the "Emergency Order" entered herein at DE #53 on June 11, 2020 and the "Second Emergency Order" entered herein at DE #60 on June 12, 2020; and it is further

ORDERED, that Temporary Emergency Custody (physical and legal) of the parties' minor child, [REDACTED] Patel, born in January, 2015 ("Minor Child") be and is hereby awarded to the Defendant/Mother, Krishna Patel; and it is further

ORDERED, that Plaintiff/Father Nishith Patel's custodial time with the Minor Child, as established in the June 25, 2018 Judgment of Absolute Divorce (DE #38), including residential custodial time, holidays, vacations/breaks, and Summer, be and is hereby suspended, except as to supervised access provided below; and it is further

ENTERED

JUN 17 2020

Clerk of the Circuit Court
Montgomery County, Md.

2

App.137

USCA4 Appeal: 22-1102
USC: 4-2
FILED: 02/10/2022
Pg. 37 of 130
Total Pages: 120 of 130

ORDERED, that Plaintiff/Father Nishith Patel may have virtual supervised access with the Minor Child through the Montgomery County Circuit Court Supervised Visitation Program (240-777-9079) starting immediately, minimum once per week; and in-person supervised access through the Montgomery County Circuit Court Supervised Visitation Program when the center reopens to allow such access; and additional supervised virtual access, minimum once per week, if the parties are able to identify a mutually-agreeable neutral virtual supervisor; and it is further

ORDERED, that this case be and is hereby designated as a "1 Family, 1 Judge" ("1F1J") case, to be assigned to the Honorable Anne K. Albright; and it is further

ORDERED, pursuant to the 1F1J designation, the appeals filed by Plaintiff/Father Nishith Patel in District Court case numbers 0601SP042522020, 0601SP042602020, and 0601SP042612020 be scheduled for hearing before Judge Albright; and it is further

ORDERED, that an expedited Scheduling Hearing also be set as soon as practicable on the remaining requests for relief in Plaintiff's Amended Emergency Motion for Custody and Motion for Reconsideration (DE #55 and DE #56) and Defendant's Verified Family Law Article Section 9-105 Emergency Petition to Modify Custody Order, or in the Alternative, Emergency Petition for Contempt and Enforcement of Custody Order (DE #48), said Scheduling Hearing to occur remotely (via

ENTERED

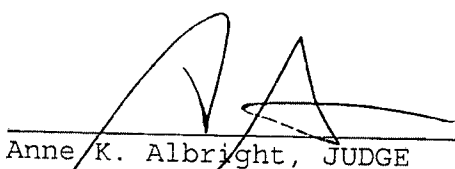
JUN 17 2020

Clerk of the Circuit Court
Montgomery County, Md.

video conference) before a Family Division Magistrate; and it is further

ORDERED, that after the Scheduling Hearing date is set, and notices thereof are mailed to the parties, video conference links shall be emailed to the Plaintiff, Nishith Patel, at nishp2004@gmail.com; to the Defendant, Krishna Patel, at krishnish2010@gmail.com; and to the Defendant's counsel, Brian M. Barke, Esquire, at barke@maxlaw.us.; and it is further

ORDERED, that all provisions of the June 25, 2018 Judgment of Absolute Divorce (DE #38) shall remain in full force and effect to the extent not inconsistent herewith.



Anne K. Albright, JUDGE
Circuit Court for
Montgomery County, Maryland

cc: Counsel of Record
Parties

ENTERED

JUN 17 2020

Clerk of the Circuit Court
Montgomery County, Md.

NISHITH PATEL, * IN THE
 Appellant, * COURT OF
 vs. * SPECIAL APPEALS
 KRISHNA PATEL, * OF MARYLAND
 Appellee. * Case No. CSA-REG-0389-2020
 * No. 0389, September Term, 2020

* * * * *

**APPELLEE KRISHNA PATEL'S
RULE 8-602(c)(8) MOTION TO DISMISS APPEAL AS MOOT**

Pursuant to Rules 8-602(c)(8) and 8-603(a)(4), Appellee Krishna Patel, through undersigned counsel, hereby moves to dismiss the within appeal because the case has become moot in light of the circuit court's recent entry of a superseding final custody order.

This is an appeal pursuant to Courts and Judicial Proceedings Section 12-303(3)(x) of an interlocutory "Third Emergency Order" (E69-E72) entered June 17, 2020, granting temporary emergency custody of the parties' child to appellee pending the outcome of the trial court's custody modification proceedings.

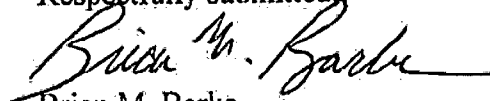
A case is moot when it does not present "a controversy between the parties for which, by way of resolution, the court can fashion an effective remedy". *Potomac Abatement, Inc. v. Sanchez*, 424 Md. 701 (2012)(quoting *Adkins v. State*, 324 Md. 641 (1991)). Further, "it is well settled that appellate courts do not sit to give opinions on abstract propositions or moot questions, and appeals which present nothing else for decision are dismissed as a matter of course." *Cottman v. State*, 395 Md. 729 (2006)(quoting *State v. Ficker*, 266 Md. 500, 506-07 (1972)). See also, *In re: Julianna B.*, 407 Md. 657 (2009), wherein the Court of Appeals

dismissed as moot an appeal of the juvenile court's denial of a motion to modify a treatment plan, following the juvenile court's subsequent entry of an order modifying the same treatment plan while the appeal was pending, saying that the former denial order was "no longer the operative order addressing the child's treatment service plan." Id. at 664.

On December 10, 2020, the circuit court entered a final order which supersedes the Third Emergency Order on appeal, thereby rendering said order no longer the "operative order" addressing custody of the parties' minor child. A copy of the circuit court's "Custody and Child Support Modification Order" superseding the Third Emergency Order on appeal is attached hereto as Exhibit "A".

Accordingly, appellee Krishna Patel requests that the within appeal be dismissed as moot. A draft order is submitted.

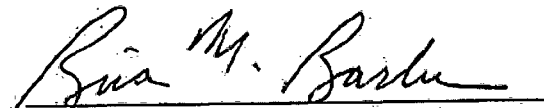
Respectfully submitted,



Brian M. Barke
Maxwell Barke & Zuckerman LLC
51 Monroe Place, Suite 806
Rockville, Maryland 20850
Tel: (301) 309-8300
Fax: (301) 309-8303
Barke@maxlaw.us
*Attorneys for Appellee
Krishna Patel*

STATEMENT OF GROUNDS AND AUTHORITIES


As cited herein.



Brian M. Barke

AFFIDAVIT OF BRIAN M. BARKE

I, Brian M. Barke, attorney for appellee, solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information and belief, and that the "Custody And Child Support Modification Order" attached hereto as Exhibit "A" is a true and correct copy of the circuit court's final modification order entered December 10, 2020 which supersedes the Third Emergency Order on appeal.


Brian M. Barke

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of December, 2020, the undersigned caused a copy of the foregoing to be served by mail upon the following: Nishith Patel, 18005 Cottage Garden Drive, Apt. 301, Germantown, Maryland 20874.


Brian M. Barke

NISHITH PATEL,

Appellant,

vs.

KRISHNA PATEL,

Appellee.

* IN THE
* COURT OF
* SPECIAL APPEALS
* OF MARYLAND
* Case No. CSA-REG-0389-2020
* No. 0389, September Term, 2020

* * * * *

ORDER

UPON CONSIDERATION of Appellee's Motion to Dismiss, and any opposition thereto, it is this _____ day of _____, 20____ by the Court of Special Appeals;

ORDERED, that appellee's motion is **GRANTED**; and it is further

ORDERED, that the within appeal is hereby **DISMISSED**, as **MOOT**.

JUDGE

Court of Special Appeals of Maryland

cc: Counsel of record

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

NISHITH PATEL,

Plaintiff

v.

KRISHNA PATEL,

Defendant

Case No. 149996 FL

CUSTODY AND CHILD SUPPORT MODIFICATION ORDER

This matter was before the Court on November 30, 2020 and December 1, 2020 for trial remotely on the following open motions and any answers filed herein:

■ DE 41: Plaintiff's Motion to Modify Child Support (Decrease)

■ DE 48: Defendant's Verified Family Law Article Section 9-105

Emergency Petition to Modify Custody Order, or in the Alternative,

Emergency Petition for Contempt and Enforcement of Custody (Contempt Only)

■ DE 55: Plaintiff's Amended Emergency Motion for Custody and

Motion for Reconsideration

■ DE 83: Defendant's Amended Petition to Modify Custody and Request

For Child Support

■ DE 96: Plaintiff's Amended Motion to Modify Custody

■ DE 97: Plaintiff's Amended Motion to Request Child Support

Plaintiff appeared personally and represented himself. Defendant appeared personally and was represented by counsel. Both parties were provided an opportunity to present evidence and argument in support of their positions and they did so. Based upon the testimony taken and evidence presented and for the reasons stated in Open Court on December 10, 2020, and those

ENTERED

1

DEC 10 2020

App.145

Clerk of the Circuit Court
Montgomery County, Md.

159

below, it is this 10th day of December, 2020, by the Circuit Court for Montgomery County, Maryland, hereby

ORDERED, that the Motions at DE 41 and 83 are **GRANTED**; and it is further

ORDERED, that the Motions at DE 55, 96, and 97 are **DENIED**; and it is further

ORDERED, that the Contempt Petition at DE 48 is **DENIED**, the court concluding that the relief requested therein is not cognizable via contempt; and it is further

ORDERED, the parties' minor child, [REDACTED], born in [REDACTED] 2015, shall be in the primary physical custody of Defendant (Mother); and it is further

ORDERED, that the parties' minor child, [REDACTED] shall be in the sole legal custody of Defendant (Mother); and it is further

ORDERED, that Plaintiff (Father) shall have supervised access, and no other, to [REDACTED] one time per week (on Saturday or Sunday) for one hour, to be supervised by the Court's Supervised Visitation Program and a separate referral order will issue; and it is further

ORDERED, that in the event that the parties mutually agree to utilize a private supervisor as an alternative to the Court's Supervised Visitation Program, Plaintiff (Father) may have two hours' per week supervised access to [REDACTED] and no other, both hours to occur consecutively on Saturday or Sunday, for example (1:00 pm – 3:00 pm Sunday) with Plaintiff to pay the costs of said supervision; and it is further

ORDERED, that commencing and accounting from December 1, 2020, and on the first day of every month thereafter, Plaintiff shall pay Defendant \$229 per month in child support; a copy of the child support guidelines worksheet demonstrating same is attached hereto and incorporated herein; and it is further

ENTERED

DEC 10 2020

ORDERED, that in addition to the above basic child support obligation, Plaintiff shall be responsible for 26.7% of [REDACTED]'s "work-related child care expenses;" and it is further

ORDERED, that if the Obligor accumulates support payment arrears amounting to more than thirty (30) days of support, the Obligor shall be subject to service of an earnings withholding order; and it is further


ORDERED, that the Obligor is required to notify the Court within ten (10) days of any change of address or employment so long as the support order is in effect; and it is further

ORDERED, that failure to comply with the above paragraph will subject the Obligor to a penalty not to exceed Two Hundred Fifty Dollars (\$250.00) and may result in the Obligor not receiving notice of proceedings for future earnings withholding; and it is further

ORDERED, that Plaintiff shall undergo a psychological evaluation that includes, but is not limited to, an assessment of Plaintiff's parenting abilities, and makes recommendations addressing, but not limited to, how Plaintiff's access to [REDACTED] can be safely managed in the future; the costs of said psychological evaluation (and recommendations) shall be paid by Plaintiff; and it is further

ORDERED, that Plaintiff shall attend individual counseling; and it is further

ORDERED, that judgment shall be entered in favor of Defendant and against Plaintiff in the amount of \$21,195.40 for attorney's fees.



ANNE K. ALBRIGHT
Judge
Circuit Court for Montgomery County, Maryland

ENTERED

DEC 10 2020

In the Circuit Court for Montgomery County, Maryland

Nishith Patel

vs. Plaintiff

Krishna Patel

Defendant

Civil no. 149996FL

Children

Date of Birth/Age

Children

Date of Birth/Age

	Mother	Father	Combined
1. Monthly Actual Income-Before Taxes	3683	1343	5026
a. Minus pre-existing child support payment actually paid	0	0	
b. Minus alimony actually paid	0	0	
c. Plus/minus alimony awarded in this case	0	0	
2. Monthly Adjusted Actual Income	3683	1343	5026
3. Percentage of Shared Income			
Apply line 2 combined to Child Support Schedule	73.3%	26.7%	
4. Basic Child Support Obligation			859
a. Work-Related Child care expenses Code FL 12-204(g)	0	0	0
b. Health Insurance Expenses Code FL 12-204(h)(1)	0	0	0
c. Extraordinary Medical Expenses Code FL 12-204(h)(2)	0	0	0
d. Cash Medical Support, Code FL 12-102(c)(3)(ii)	0	0	0
e. Additional Expenses	0	0	0
5. Total Child Support Obligation			859
6. Each Parents Child Support Obligation (line 3 times line 5)	630	229	
7. Recommended Child Support Obligation			
a. Income apportioned credit/debit from line 4.	0	229	
	0	0	
8. Recommended Child Support Order		229	

Comments or special adjustments, including any adjustment for certain third party benefits paid to or for the child of an obligor who is disabled, retired, or receiving benefits as a result of a compensable claim (see Code, Family Law Article, §12-204 (j)).

Prepared by: Anne K. Albright

Date: 12/10/2020

COURT OF SPECIAL APPEALS

Nishith Patel,

Case No: CSA-REG-0389-2020

Plaintiff / Appellant,

v.

Krishna Patel

Defendant /Appellee.

APPELLANT NISHITH PATEL'S OPPOSITION TO MOTION TO DISMISS

Appellant Nishith Patel, appearing *pro se*, hereby files this Opposition to Appellee's Motion to Dismiss.

In support thereof, Appellant submits the following:

1. This case involves serious matters regarding the custody and care of a 5-year-old girl. As outlined in exhaustive detail in Plaintiff's brief, the entire basis for Appellant's appeal is that the judge at the Circuit Court is biased and should be removed from this family law case.
2. As described in exhaustive detail in Appellant's brief, the trial judge's bias culminated in the disastrous result of separating a five-year old girl from her father (except for a 1-hour per week virtual visitation). In the brief, Appellant

identified numerous instances demonstrating that the Circuit Court judge was demonstrably biased, including the following:

- a. The Circuit Court judge had determined she would not grant Appellee's Emergency Motion for Custody prior to the hearing. *See Appellant's Brief* at 13.
 - b. The Circuit Court Judge had determined that she would continue to suspend Mr. Patel's access to his daughter prior to the hearing. *Id.* at 14.
 - c. The Circuit Court judge assumed facts not in evidence and all her inferences were favorable to the mother, Appellee. *Id.* at 15.
 - d. The Circuit Court judge expressed her belief that it was "self-serving" for Mr. Patel to report child abuse to the police and that Mr. Patel's efforts to protect his daughter through the Courts was "self-help." *Id.* at 18.
3. Most importantly, Appellant's brief argued persuasively that the Circuit Court judge's bias was so extreme that she would not even consider what was in the minor child's best interests and instead punished *the child* by limiting her access to her father. *Id.* at 20.
 4. It is apparent that Appellee, who has benefited greatly from the biased judge, does not wish for this Court to review the indisputable evidence of judicial bias presented in Appellee's brief.
 5. Of particular importance, the Circuit Court judge *sua sponte* made herself the "1F1J" in this case, making it even more critical that this Court review the evidence of judicial bias as presented in Appellant's, brief. Appellant is certain that the review will show that the Circuit Court judge was indeed extremely

biased and seeks that this Court relieve Appellant and his daughter from future miscarriages of justice from the same Circuit Court judge. Again, because Appellee has received all that she asked for (and then some) from the Circuit Court judge, Appellee benefits greatly from having her remain as the “1F1J” in this case. Her Opposition simply seeks to shield the Circuit Court judge from appellate review and removal.

6. In short, as long as the Circuit Court judge remains the “1F1J” in this case, a controversy will continue to exist until reviewed by an appellate court.
7. Appellee’s Motion to Dismiss does not even address the arguments presented in Appellant’s brief and improperly states that a controversy does not exist. This is disingenuous. At every point in the Circuit Court proceedings, including during the hearing that resulted in the “December 10” Order, Plaintiff / Appellant noted his objection to the “1F1J” in this case and stated that he will continue pursuing his Appeal seeking her removal so that a different, impartial judge who actually considers what is in the best interests of the child may preside over the case.

Appellant submits that the evidence presented in his brief demonstrates conclusively that the Circuit Court judge was biased and is unfit to preside over this family law case. Her removal from the family law remains critical to Appellant and his daughter’s rights. Having benefited greatly from the biased judge, Appellee obviously desires that this Court not examine the evidence presented in Appellant’s brief. However, that would result in continued suffering to the Appellant and his daughter, who have been forcibly separated by a biased judge. Therefore, Appellant respectfully requests that the Motion to Dismiss be denied and that the appellate review resume on an expedited basis.

Respectfully submitted,



Date: December 28, 2020

Nishith Patel
18005 Cottage Garden Dr. Apt 301
Germantown, MD 20874
Nishp2004@gmail.com

CERTIFICATE OF SERVICE

I, the undersigned, have served a copy of this document to the persons indicated below via first class mail and other means indicated below and on the date of signature below:

Brian Barke, Esq.
Attorney for Defendant Krishna Patel
51 Monroe Pl. #806
Rockville, MD 20850
Barke@maxlaw.us

Date: December 28, 2020



Nishith Patel

NISHITH PATEL,

Appellant,

v.

KRISHNA PATEL,

Appellee.

IN THE

COURT OF SPECIAL APPEALS

OF MARYLAND

SEPTEMBER TERM, 2020

No. 389

(Circ. Ct. No.: 149996FL)

* * * * *

ORDER

Upon consideration of the appellee's "Rule 8-602(c)(8) Motion to Dismiss Appeal as Moot," and the appellant's opposition thereto, it is this 4th day of January 2021, by the Court of Special Appeals,

ORDERED that the appellee's motion is granted; and it is further

ORDERED that the above-captioned appeal is dismissed as moot pursuant to Maryland Rule 8-602(c)(8).

FOR A PANEL OF THE COURT
 consisting of Berger, Leahy, Wells, JJ.

(JUDGE'S SIGNATURE
 APPEARS ON ORIGINAL ORDER)

STUART R. BERGER, Judge

COURT OF SPECIAL APPEALS

Nishith Patel,

Case No: CSA-REG-0389-2020

Plaintiff / Appellant,

v.

Krishna Patel

Defendant /Appellee.

APPELLANT’S MOTION TO RECONSIDER

Appellant Nishith Patel, appearing *pro se*, hereby submits this Motion to Reconsider in relation to this Court’s Order issued on January 4, 2020, which dismissed Appellant’s case as “moot” pursuant to Maryland Rule 8-602(c).

I. PROCEDURAL HISTORY

This case involves serious matters regarding the custody and care of a 5-year-old girl. As outlined in exhaustive detail in Plaintiff’s brief, the entire basis for Appellant’s appeal is that the judge at the Circuit Court **is biased and should be removed from this family law case.** The evidence of the Circuit Court judge’s bias was exhibited during two hearings on June 2020, which ultimately resulted in the separation of Appellant and his daughter.

On or about June 22, 2020, Appellant filed a Notice of Expedited Appeal with this Court.¹ Thereafter, Appellant filed briefs with this Court on September 11, 2020. At that time it had been approximately three (3) months since Appellant had been separated from

¹ At this point, the Circuit Court Judge became aware that her conduct and rulings would be reviewed by an appellate court.

his daughter due to the biased judge. This Court rejected that brief because it did not comply with the extract requirements of this Court.

Subsequently, on or about November 10, 2020, Appellant filed a revised brief and extract with this Court. At that juncture, it had been approximately five (5) months since Appellant had been separated from his daughter due to the biased judge. Thereafter, on or about December 10, 2020, approximately six (6) months after the Circuit Court had exhibited her bias and lack of partiality in the initial proceedings in June, 2020, it issued the “final” order on which Appellee now relies upon to claim that the initial issues are now “moot.”

On January 4, 2020, this Court granted Appellee’s Motion to Dismiss on a one page Order, the consequence of which is that all of the evidence of the bias displayed by the judge and presented by Appellant in his brief has not been even reviewed by this Court. Appellant and his daughter continue to be separated.

II. ARGUMENT

a. The Case is Not Moot Because Appellant Continues to Seek Relief And An Effective Remedy Can Be Sought

Under Maryland law, “[a] case is moot if, 'at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy that the court can provide.'" *State v. Neiswanger Mgmt. Servs., LLC*, 457 Md. 441, 455 (2018) (quoting *Frazier v. Castle Ford, Ltd.*, 430 Md. 144, 162-63 (2013)). Thus, for this Court to dismiss Appellant’s appeal, it must conclude both that (1) there is no longer an existing controversy; and (2) this Court cannot provide an effective remedy. As described in great detail in Appellant’s brief, the issue and controversy is the Circuit Court judge, whose bias has clouded everything else in the case, including the orders which she

issued. She continues to preside over this case. Therefore, the controversy continues to exist. Neither Appellee nor this Court in its Order has addressed the actual issue of judicial bias as raised by Appellant in his brief.

Furthermore, the effective remedy sought by Appellant is the removal of the Circuit Court judge from this case, vacating her orders, and a rehearing by a different judge. This Court has the power to provide that remedy. Thus, under Maryland law, the case is not moot.

b. This Court Cannot Determine If The Circuit Court Judge Was Biased Relying Upon Written Text of Two Orders

This Court improperly dismissed Appellant's appeal based upon the written text of two Orders issued by the same biased judge. However, this Court cannot determine whether the Circuit Court judge was biased by simply reviewing the text of a temporary order and a subsequent final order. Both of those documents were issued by the Circuit Court and do not contain argument from Appellant. While this Court cannot determine the Circuit Court's bias relying upon two Orders issued by the judge, it can, upon reviewing the brief submitted by Appellant (and any opposition thereto), make a determination on the issue. More importantly, as argued above, this Court can then fashion the appropriate remedy and provide Appellant the relief that this case desperately needs.

c. Public Policy Requires This Court To Hear This Case

Even if this Court were to dismiss this case on the faulty logic that a final order makes "moot" every issue in a case – even those that were properly appealed at an interlocutory stage – public policy requires this Court to review the conduct and partiality of the Circuit Court judge. This Court is permitted to decide the case on its merits because dismissal under Rule 8-602(c)(8) is discretionary. *See* Rule 8-602(c)(8) (The Court "may dismiss an

appeal if...the case has become moot" (emphasis supplied). Furthermore, the Court of Special Appeals "will address on rare occasion a moot case that presents unresolved issues in matters of important public concern that, if decided, will establish a rule for future conduct, or the issue presented is capable of repetition, yet evading review." *Stevenson v. Lanham*, 127 Md. App. 597, 612 (1999)

Fair and neutral judges are a linchpin of the American judicial system, without which faith in the administration of justice would collapse. In the present appeal, Appellant has detailed exhaustively in his brief that the Circuit Court judge in this case was biased, and that bias resulted in the disastrous separation of father from daughter. Since the Circuit Court judge is biased, as Appellant contends, public policy would require that she not preside over this family law case and her biased rulings be vacated. For this reason alone Appellant's case should not be dismissed.

Another public policy consideration is the necessity and usefulness of the appellate process. In this family law case, in which Appellant was forcibly separated from his daughter by a biased judge, Appellant came to this Court to seek relief. Appellant came to this Court because he knew he would not get a fair hearing from a biased judge because of how the initial proceedings transpired on June 2020. Appellant came to this Court and filed an initial brief and then a revised brief upon spending considerable time and effort to show this Court the evidence of the judge's bias. If this Court *does not* hear this case, it undermines its own authority as an arbiter of the lower courts. Furthermore, it sets a dangerous precedent whereby lower court judges need only get to the point of issuing a "final" order to cover up all their prior transgressions.

III. CONCLUSION

For the foregoing reasons, Appellant respectfully requests that his appeal not be dismissed, and that the appeal process continue on an expedited basis.

Respectfully submitted,

January 14, 2020

Nishith Patel, Appellant
618 Center Point Way
Gaithersburg, MD 20878
Npatel.law@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 14, 2020, a copy of the foregoing document was served on Brian Barke, 51 Monroe Pl., #806, Rockville, MD 20850 (Attorney for Defendant / Appellee) (barke@maxlaw.us).

January 14, 2020

Nishith Patel, Appellant
618 Center Point Way
Gaithersburg, MD 20878
Npatel.law@gmail.com

IN THE COURT APPEALS OF MARYLAND

Nishith Patel,

Petitioner.

v.

Krishna Patel,

Respondent.

_____ Term, 2021

Petition Docket No. _____

PETITION FOR WRIT OF CERTIORARI

Petitioner Nishith Patel, appearing *pro se*, respectfully requests this Court to grant a writ of certiorari for the above captioned case. The central issue at stake is critically important to the public interest because it implicates the integrity of the judicial system and the sanctity of parental rights.

This petition arises from an appeal filed with the Court of Special Appeals case (*Patel v. Patel*, CSA-REG-0389-2020), in which Petitioner, the father in this custody case, sought appellate review of the conduct and rulings of a Circuit Court judge (*Patel v. Patel*, 149996FL). Specifically, Petitioner's brief detailed exhaustively the numerous errors committed by the Circuit Court judge and demonstrated unequivocally that she was biased against Petitioner. Petitioner requested that

the Court of Special Appeals disqualify her from the case and vacate her rulings.¹ Respondent filed a Motion to Dismiss the appeal, arguing that because the Circuit Court judge later issued a “final” order (approximately five months after Petitioner filed his Notice of Appeal due to the judge’s bias), Petitioner’s appeal was now “moot.” Petitioner filed an Opposition to the Motion to Dismiss, highlighting the fact that petitioner’s brief specifically sought the Court of Special Appeals to determine whether the Circuit Court judge was biased, and that without appellate review, the Circuit Court judge would remain the “One Family One Judge” in the case and her rulings will continue to stand, and therefore the appeal could not possibly be moot. On January 4, 2021, the Court of Special Appeals dismissed Petitioner’s appeal as “moot” in a one-line order. Petitioner filed a Motion to Reconsider, urging the Court of Special Appeals to consider the public policy implications of permitting a biased judge to remain in the family law case. The Court of Special Appeals denied Petitioner’s Motion to Reconsider and issued a mandate on February 12, 2021.

QUESTIONS PRESENTED

1. Can an appeal requesting the disqualification of a biased judge be dismissed as “moot” if the judge continues to preside over the case?
2. Can an appeal requesting the vacating of a biased judge’s orders be dismissed as “moot” if those orders have not been vacated?

¹ The Circuit Court judge’s bias was exhibited during two hearings on June 2020, which ultimately resulted in the separation of Petitioner and his daughter. It is now approaching nine (9) months since the Circuit Court judge separated father from daughter.

PERTINENT STATUTES, REGULATIONS AND CONSTITUTIONAL PROVISIONS

MD Rules Judges 18-102.11(a)

Md. Rule 8-602(c)(8)

STATEMENT OF FACTS

On June 15, 2020, Judge Albright of the Montgomery County Circuit Court presided over the hearing on Petitioner's Emergency Motion for Custody. During that hearing, Judge Albright demonstrated that she was unequivocally biased against father. First, she made several comments indicating that she had determined prior to the hearing that no matter what evidence Petitioner presented, and no matter how compelling the need for the minor child to be removed from Respondent's household, she would not grant Petitioner's Emergency Motion for Custody. Second, she made comments that prior to hearing, no matter what evidence Petitioner presented, and no matter what was in the minor child's best interests, she had predetermined to separate daughter and father. As she foreshadowed, at the conclusion of that hearing, Judge Albright indeed denied Petitioner's Emergency Motion for Custody and, further, suspended his access to his daughter (and her access to her father) except for a 1-hour weekly supervised virtual meeting.² In addition, she made herself the "1F1J" (One Family One Judge) in the case.

On June 22, 2020, Appellant filed a Notice of Expedited Appeal with the Court of Special Appeals.³ At the Circuit Court, Petitioner also filed an Emergency Motion to Disqualify Judge

² What is especially revealing about the Circuit Court's bias is that when she cautioned Mr. Patel to "move on" because "typically...we do not decide custody on an emergency basis" she neglected the fact that just days earlier she had herself granted Ms. Patel emergency custody on her petition.

³ At this point, the Circuit Court Judge became aware that her conduct and rulings would be reviewed by an appellate court.

Albright. Against Petitioner's objection, Judge Albright presided over the hearing on whether she was biased and, unsurprisingly, did not find herself biased and declined to recuse herself.⁴ A Notice of Appeal was filed for that decision also, the transcript of which was added to the case before the Court of Special Appeals.

Subsequently, on November 10, 2020, Petitioner filed a revised brief and extract with the Court of Special Appeals demonstrating the Circuit Court's bias and requested that she be disqualified from the case and her rulings be vacated. At that juncture, it had been approximately five (5) months since Petitioner had been separated from his daughter due to the biased judge. Thereafter, on December 10, 2020, approximately six (6) months after the Circuit Court had exhibited her bias and lack of partiality, and despite failing to recuse herself despite her bias, issued a "final" order in the case. Respondent then filed a Motion to Dismiss Petitioner's appeal at the Court of Special Appeals on the ground that it was "moot" because of the "final" order.

On January 4, 2021, the Court of Special Appeals granted Respondent's Motion to Dismiss on a short order, meaning all the evidence of judicial bias presented in Petitioner's brief was not even reviewed. Petitioner filed a Motion to Reconsider this illogical result – that an appeal requesting the disqualification of a judge and the vacating of her orders could not be dismissed as "moot" while that very same judge continued to preside as the "One Family One Judge" and her orders still stood. Again, in a short order, the Court of Special Appeals denied Petitioner's Motion to Reconsider and issued a mandate on February 12, 2021. Petitioner and his daughter continue to be separated.

⁴ Petitioner submits that asking any person – especially a judge – to evaluate his or her own biases and then publicly state that they are indeed biased is not likely to produce an admission.

I. REASONS FOR GRANTING THE PETITION

a. **The Integrity of the Judicial System Requires Appellate Review of Biased Lower Court Judges**

Fair and neutral judges are a linchpin of the American judicial system, without which faith in the administration of justice would collapse. Accordingly, Maryland has adopted rules governing the conduct of judges and identified parameters when disqualification is appropriate. A Maryland judge “shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned ...” MD Rules Judges 18-102.11(a). The impartiality of a judge may be questioned when “the judicial appointee has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding” MD Rules Judges 18-102.11(a)(1). Further, “a party has the right to trial by a judge who is not only impartial and disinterested, but also has the appearance of being impartial and disinterested.” *Cason v. State*, 140 Md. App. 379, 399, 780 A.2d 466, 478 (2001); see *Jefferson-El v. State*, 330 Md. 99, 107, 622 A.2d 737, 741 (1993) (recognizing “the importance of the judicial process not only being fair, but appearing to be fair”).

Under the Due Process Clause of the U.S. Constitution, “recusal is required when, objectively speaking, “the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.” *Withrow v. Larkin*, 421 U. S. 35, 47 (1975). Furthermore, recusal for the appearance of partiality does not require a finding of actual bias – the standard is “whether a reasonable member of the public knowing all the circumstances would be led to the conclusion that the judge’s impartiality might reasonably be questioned.” *In re Turney*, 311 Md. 246, 253, 533 A.2d at 923 (1987).

In the present case, Petitioner detailed exhaustively in his brief to the Court of Special Appeals that the Circuit Court judge was biased, and that bias resulted in the disastrous separation of father from daughter. The Circuit Court judge continued to remain on the case as the “One Family One Judge” and issued a “final” order despite Petitioner’s request for disqualification and appeal to the Court of Special Appeals. As explained above, the Court of Special Appeals illogically dismissed Petitioner’s appeal as “moot” in a short order, even though the biased judge remained on the case and her orders remained in effect.

This result calls into question the integrity of the judicial system on two levels. First, it undermines the necessity and usefulness of the appellate process. In this family law case, in which Petitioner was forcibly separated from his daughter by a biased judge, Petitioner sought relief at the Court of Special Appeals. Petitioner sought appellate review because he knew that the biased judge would harm him and his daughter in a final hearing. Petitioner expended considerable time and effort to collect the evidence and write the brief to show the judge’s bias to the Court of Special Appeals. Tragically, the Court of Special Appeals declined to even review Petitioner’s appeal. In doing so, it undermined its own authority as an arbiter of the lower courts and necessitated Petitioner to seek relief here, with the Court of Appeals.

Not only does the result question the necessity and usefulness of the appellate process, it also positively reinforces the improper conduct of the Circuit Court. By determining that Petitioner’s appeal was “moot” simply because the biased judge issued a “final” order, the Court of Special Appeals has permitted judges to predetermine the outcome of a case and choose which party to favor prior to hearing both sides or even receiving any evidence. It also set a dangerous precedent whereby lower court judges need only get to the point of issuing a “final” order to cover

up all their prior transgressions. This outcome again highlights that at stake in this case is the integrity of the Maryland judicial system.

b. The Court of Special Appeals Erred by Dismissing Petitioner's Appeal as "Moot" Even Though Petitioner Sought The Disqualification of a Biased Judge Who Remains In The Case And Whose Orders Still Stand

Under Maryland law, "[a] case is moot if, 'at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy that the court can provide.'" *State v. Neiswanger Mgmt. Servs., LLC*, 457 Md. 441, 455 (2018) (quoting *Frazier v. Castle Ford, Ltd.*, 430 Md. 144, 162-63 (2013)). Thus, for Court of Special Appeals to have properly dismissed Petitioner's appeal, it must have concluded both that (1) there was no longer an existing controversy; and (2) the Court could not provide an effective remedy. As described in great detail in Petitioner's brief, the issue and controversy was the Circuit Court judge, whose bias clouded the whole case, including the orders she issued. She continues to preside over this case. Her orders still stand. Therefore, the controversy continues to exist, and will continue to exist as long as she remains the "1F1J" and her orders remain in effect.

In a nutshell: inherent in the appeal to the Court of Special Appeals was the existence of a controversy; similarly, inherent in this Petition is also the continued existence of a controversy.

With respect to whether an effective remedy could be provided by the Court of Special Appeals (or this Court), the remedy sought by Petitioner is the removal of the Circuit Court judge from the case, vacating her orders, and a rehearing by a different judge. The Court of Special Appeals has the power to provide that remedy. Thus, under Maryland law, the case was (and is) not moot.

c. The Court Of Special Appeals Cannot Determine If The Circuit Court Judge Was Biased Relying Upon Written Text of Two Orders

Neither Respondent in its Motion to Dismiss nor the Court of Special Appeals in its order addressed the actual issue of judicial bias as raised in Petitioner's brief. Instead, the Court of Special Appeals improperly dismissed Petitioner's appeal as "moot," accepting Respondent's argument that the final order issued by the Circuit Court judge somehow absolved her bias.

Petitioner submitted in his Motion to Reconsider that the Court of Special Appeals could not possibly determine whether the Circuit Court judge was biased by simply reviewing the text of a temporary order and a subsequent final order. Both of those documents were issued by the same Circuit Court judge whose impartiality was at issue and neither document contained argument from Petitioner. While the Court of Special Appeals could not possibly determine the Circuit Court's bias relying upon two Orders issued by the judge, it could, upon reviewing the brief submitted by Petitioner (and any opposition thereto), make a determination on the issue. More importantly, as argued above, the Court of Special Appeals could then fashion the appropriate remedy and provide Petitioner and his daughter the relief that this case desperately needed.

d. Dismissal Under Rule 8-602(c)(8) Is Discretionary And The Court Of Special Appeals Abused Its Discretion

Even if the Court of Special Appeals accepted the faulty logic that a final order makes "moot" every issue in a case – even those that were properly appealed at an interlocutory stage – the Court should have decided the case on its merits because dismissal under Rule 8-602(c)(8) is discretionary. *See* Rule 8-602(c)(8) (The Court "may dismiss an appeal if...the case has become moot" (emphasis supplied). Furthermore, the Court of Special Appeals "will address on rare occasion a moot case that presents unresolved issues in matters of important public concern that, if decided, will establish a rule for future conduct, or the issue presented is capable of repetition,

yet evading review." *Stevenson v. Lanham*, 127 Md. App. 597, 612 (1999). As described in greater detail above, public policy required the Court of Special Appeals to review the misconduct and partiality of the Circuit Court judge. The integrity of the judicial system is at stake in this case, and if an appellate court has the discretion to save the integrity of the judicial system, it must do so.


Finally, and most importantly from Petitioner's personal perspective, a biased judge forcibly separated a daughter from her loving father, who had previously spent approximately 40% of their time together. It is now approaching nine (9) months since father and daughter were separated. The Court of Special Appeals abused its discretion because it failed to consider the impact a biased judge would have on the life of Petitioner and, most importantly in this case, his daughter.

II. CONCLUSION

For the foregoing reasons, the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

March 1, 2021


Nishith Patel, *pro se*

55 Old Belchertown Road


Ware, MA 01082

nishp2004@gmail.com

CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH THE MARYLAND RULES

This filing was printed in 12-point Times New Roman font; complies with the font, line spacing, and margin requirements of Md. Rule 8-112; and contains 2,580 words

March 1, 2021



Nishith Patel, *pro se*

55 Old Belchertown Road


Ware, MA 01082

nishp2004@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 26, 2021, a copy of the foregoing document was served on Brian Barke, 51 Monroe Pl., #806, Rockville, MD 20850 (Attorney for Defendant / Appellee / Respondent) (barke@maxlaw.us).

March 1, 2021



Nishith Patel, *pro se*

55 Old Belchertown Road

Ware, MA 01082

nishp2004@gmail.com

NISHITH PATEL

* **IN THE**
* **COURT OF APPEALS**
* **OF MARYLAND**

v.

* **Petition Docket No. 493**
* **September Term, 2020**
* **(No. 389, Sept. Term, 2020**
* **Court of Special Appeals)**
* **(No. 149996FL, Circuit Court**
for Montgomery County)

KRISHNA PATEL

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals, the answer, and the Motion to Seal filed thereto, in the above-captioned case, it is this 23rd day of April, 2021

ORDERED, by the Court of Appeals of Maryland, that the Motion to Seal be, and it is hereby, **DENIED**, and it is further

ORDERED, that the petition be, and it is hereby, **DENIED** as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Mary Ellen Barbera
Chief Judge

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

NISHITH PATEL
Plaintiff

v.

Case No. 149996 FL

KRISHNA PATEL
Defendant

ORDER OF REFERRAL
(568)

It is this 25th day of March, 2021, by the Circuit Court for Montgomery County, Maryland,

ORDERED that to the extent that Plaintiff's Emergency Motion for Access to Child (DE 178) seeks to continue supervised visitation, the motion is hereby **GRANTED**; and it is further

ORDERED that the **Father** shall participate in the Supervised Visitation Program, and it is further,

ORDERED that a qualified visitation supervisor shall be assigned by the Family Division to supervise said visits between the minor child(ren) and the **Father**, and it is further

ORDERED, that the parents shall abide by the following terms and conditions in connection with the court-ordered visitation:

(1) The Parents are to contact Family Division Services, 240-777-9076 immediately following proceedings, to speak with a Circuit Court Evaluator for a brief intake interview and to establish the rules of conduct for the remote visitation sessions.

(2) Any and all communications during the remote sessions between the parents, child(ren) and the Supervisor are **NOT** confidential or privileged and may be used during the status/review hearing.

(3) The **Mother** shall make the minor child available for remote visits by telephone, tablet or computer at a date and time to be established by Family Division Services and every week thereafter for approximately 45 minutes to one hour, although the visits may be shorter depending on the age and ability of the child. There will be a total of 12 visits occurring over a three-month period.

(4) It shall be the obligation of the **Mother** to ensure that the minor child are available for each scheduled session.

(5) At any time, the Supervisor concludes that the behavior or conduct of a parent is inappropriate, that the parties are failing to cooperate with the Supervisor or that there is any risk to the minor child(ren), the

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

NISHITH PATEL

v.

KRISHNA PATEL

Respondent.


Case No. 149996 FL

ORDER

Upon consideration of Defendant's Motion at DE 188, and Plaintiff's Motion at DE 189, and it appearing that the parties agree that Plaintiff's supervised virtual visitation with the minor child should continue through the Court's Supervised Virtual Visitation Program, (at least while Plaintiff's Modification Motion ^{at 189} is pending before the Court) and finding that same is in the minor child's best interest at this time, it is this 6th day of August, 2021, by the Circuit Court for Montgomery County, Maryland, hereby

ORDERED AS AGREED, that Plaintiff's supervised virtual visitation through the Court's program shall continue and the Court will issue a separate referral order regarding same; and it is further

ORDERED, that to the extent that Plaintiff's Emergency Motion at DE 189 seeks modification of the Court's Order at DE 159, same shall be set for scheduling conference before a Family Division Magistrate and proceed in the ordinary course, the Court concluding that it does not present an emergency such that emergency relief would be appropriate at this time.



Anne K. Albright
Judge

Circuit Court for Montgomery County, Maryland

Supervisor may terminate the visit.



Anne K. Albright
Judge

***NOTICE TO PARTIES:**

**THIS IS A COURT ORDER AND IS ENFORCEABLE
THROUGH THE CONTEMPT POWERS OF THE COURT.
FAILURE TO OBEY THIS COURT ORDER MAY RESULT IN A
CONTEMPT PROCEEDING BEING BROUGHT AGAINST YOU,
WHICH MAY BE PUNISHABLE BY A FINE OR
IMPRISONMENT, OR BOTH.**

cc: Family Division Services

NOTICE

**If present, please immediately direct the parties to Family
Division Services for an intake interview.**

**Please forward a copy of the Order to Family Division
Services, Suite 1500.**

IN THE DISTRICT COURT OF MARYLAND

NISHITH PATEL

Case No: 21-cv-02409-GJH

Plaintiff,

v.

ANNE ALBRIGHT

and

MARY ELLEN BARBERA

and

STUART BERGER

Defendants.

FILED
LOGGED
ENTERED
RECEIVED
OCT 25 2021
AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND
DEPUTY
BY

AMENDED COMPLAINT

Nishith Patel ("Mr. Patel"), appearing *pro se*, files this Petition for Writ of Mandamus and / or Complaint to seek relief in a family law case arising in Montgomery County, Maryland (*Patel v. Patel*, 149996FL).

Parties

1. Plaintiff Mr. Patel presently resides in Massachusetts at 55 Old Belchertown Road, Ware, MA 01082. However, prior to December, 2020, for approximately 10 years, Mr. Patel was a Maryland resident.

2. Defendant Anne Albright is employed as a judge at the Montgomery County Circuit Court in Maryland. Her place of employment is 50 Maryland Avenue, Rockville, MD 20850.

3. Defendant Stuart Berger is employed as judge at the Maryland Court of Special Appeals. His place of employment is 361 Rowe Blvd., Annapolis, MD 21401.

4. Defendant Mary Ellen Barbera is employed as a judge at the Maryland Court of Appeals. Her place of employment is 361 Rowe Blvd., Annapolis, MD 21401.

Jurisdiction and Venue

5. Jurisdiction in this Court is proper pursuant to 28 U.S.C. § 1331 (federal question) and its original jurisdiction on all constitutional law matters. Furthermore, jurisdiction is proper in this Court under the All Writs Act, 28 U.S.C. § 1651. Finally, jurisdiction is proper under 42 U.S.C § 1983.

6. Venue is proper in this Court because the acts complained of herein occurred in Maryland.

Statement of Facts

7. Mr. Patel is the father of a six-year-old girl. For approximately two years after a divorce in 2018, Mr. Patel shared physical and legal custody of his daughter, and both enjoyed a loving father-daughter relationship.

8. Unfortunately, on or about April 2019, and again on June 2020, Mr. Patel was compelled to file for emergency motions for custody and/or protective orders.

9. On or about June, 2020, after denying Mr. Patel's prior attempts to obtain emergency custody (without granting a hearing, and only after granting Ms. Patel, the mother of the child, her cross-motion for emergency custody *ex parte*), the Circuit Court

in Montgomery County, Maryland held a hearing on Mr. Patel's emergency motion for custody.

10. In that hearing, Ms. Albright, the presiding judge, denied Mr. Patel's petition and instead granted mother exclusive physical and legal custody over their child. She also suspended Mr. Patel's physical access to his daughter (and the child's physical access to her father).

11. During Circuit Court proceedings, Ms. Albright made numerous errors of law and findings of fact. She also displayed an obvious bias for the mother.

12. To compound the problems, she made herself the "1F1J" (one family, one judge) of the family law case, meaning that she appointed herself the permanent judge of all family law matters between the parties *indefinitely*.

13. Ms. Albright demonstrated a complete disregard for what is in the best interests of the child. She also made clear that her distaste toward the child's father will continue.

14. For example, Ms. Albright determined prior to the hearing – before any evidence was presented and before any arguments were made – that she would separate father from daughter.

15. Ms. Albright had also determined prior to the hearing – again, before any evidence was presented or any arguments were made – that she would only permit supervised access between father and daughter.

16. Ms. Albright also assumed facts not in evidence in favor of the Defendant. For example, she discredited testimony from Mr. Patel even when it was *supported* by the opposing party in the case.

17. Among the Circuit Court's horrific rulings was her complete denial of Mr. Patel's access to his daughter (and her access to her father) except for a 1-hour virtual visitation per week.

18. The minor child's relationship with her father has been severely harmed because of Ms. Albright's decisions. Prior to the Circuit Court's ruling, the minor child enjoyed spending 2-3 days per week with her father and could depend on his judgment as he had joint legal custody (the terms of the physical and legal custody were agreed upon by the parents after considerable negotiation during the divorce proceedings).

19. Mr. Patel filed a motion requesting that Ms. Albright disqualify herself from the case. Not surprisingly, she declined to admit her bias publicly and denied Mr. Patel's motions for disqualification.

20. Mr. Patel sought appellate review of the judge's bias and sought her disqualification through the Maryland Court of Special Appeals (*Patel v. Patel, September Term, 2020*, No. 389). Mr. Patel's brief to the Court of Special Appeals included detailed evidence showing judicial bias. Nevertheless, the Court of Special Appeals declined to decide Mr. Patel's appeals on the merits. Instead, it dismissed Mr. Patel's appeals on the absurd ground that his appeal was "moot" because the judge had six-months later issued a final order.

21. Defendant Mr. Berger signed the Court of Special Appeals' order dismissing Mr. Patel's appeal.

22. Mr. Patel then sought relief from the Maryland Court of Appeals (*Patel v. Patel, September Term, 2020*, No. 493). In his Petition for Writ of Certiorari, Mr. Patel argued extensively why the Court of Special Appeals should have evaluated the judge's

behavior on the merits. Specifically, the integrity of the judicial system is at stake when an unfit judge can evade review of misconduct simply by issuing a final order. Just as important, her continued presence in the case continues to violate Mr. Patel's constitutional rights, and as described below, she *still* has refused Mr. Patel physical access to his daughter, after sixteen months.

23. The Maryland Court of Appeals declined to review Mr. Patel's appeal on the merits, stating that it was neither desirable nor in the public interest. The logical extension of the Maryland Court of Appeals' holding is that even if a trial judge utterly disregards her obligation to abide by judicial ethics, and even if she unabashedly violates Mr. Patel's constitutional rights, she may evade appellate scrutiny so long as she issues a final order.

24. Defendant Ms. Barbera signed the order denying review of Mr. Patel's writ of certiorari.

25. The Maryland Court of Appeals' holding has given Ms. Albright *carte blanche* to continue acting with utter disregard for Mr. Patel's rights and for what is in the best interests of the child. Mr. Patel has twice requested Ms. Albright to permit him to spend in-person time with his daughter, but she has denied his requests. On Mr. Patel's last motion for physical access to his daughter, Ms. Albright demonstrated her callousness toward him by stating that "it appear[ed] that the parties agree that Plaintiff's supervised virtual visitation with the minor child should continue..." despite Mr. Patel's repeated and clearly stated requests to spend time with his daughter in person.

26. That Order was entered on August 10, 2021. Mr. Patel has no avenue to appeal that Order because the Maryland Court of Special Appeals and the Maryland Court

of Appeals have already determined that judicial bias will not be examined if the judge has issued an order.

27. Moreover, by stating that it does not consider appellate review of constitutional violations and unethical judicial behavior to be “desirable or in the public interest,” the Maryland Court of Appeals has ceded its authority to do so in this case.

28. As of the date of this filing, it has been sixteen months since Mr. Patel last had physical or legal custody of his daughter. He has not been able to spend time with her in person because of the horrendous rulings by Ms. Albright and because the Maryland appellate courts’ refuse to consider Mr. Patel’s appeal on the merits.

29. Ms. Albright still remains the “1F1J” on the family law case, continues to be biased against Mr. Patel, and continues to issue orders that repeatedly deny him access to his child.

30. This Court has the authority to issue a writ of mandamus pursuant to the All Writ Acts and because it has original jurisdiction over constitutional law matters.

REQUEST FOR RELIEF

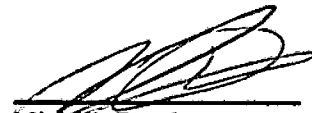
WHEREFORE, Mr. Patel respectfully requests that this Court:

- a) issue a writ of mandamus or injunctive order requiring the defendant Ms. Albright to disqualify herself from the family law case pending this litigation;
- b) issue a writ of mandamus or injunctive order vacating the Ms. Albright’s rulings in the family law case pending this litigation;
- c) declare that defendant Ms. Albright’s actions deprived Mr. Patel of his constitutionally protected rights;
- d) declare that the “1F1J” policy is unconstitutional as a matter of law;

- e) declare that the "1F1J" policy is unconstitutional as applied to this case;
- f) declare that the defendant's actions are so biased as to be constitutionally intolerable;
- g) declare that the Maryland Court of Special Appeals deprived Mr. Patel's constitutional rights to seek access and relief from the courts;
- h) declare that the Maryland Court of Appeals deprived Mr. Patel's constitutional rights to seek access and relief from the courts;
- i) assess compensatory damages for emotional distress, humiliation, embarrassment, harm to his career, loss of income, and mental anguish in an amount to be proved at trial;
- j) assess punitive damages in an amount to be proved at trial;
- k) assess costs and expenses of this action, including, but not limited to, reasonable attorneys' fees and litigation costs; and
- l) grant such other relief as the Court finds necessary and appropriate.

Dated: October 22, 2021

Respectfully submitted,



Nishith Patel
Pro Se
55 Old Belchertown Road
Ware, MA 01082

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

U.S. DISTRICT COURT
DISTRICT OF MARYLAND
2021 OCT 26 PM 1:27
CLERK'S OFFICE
AT GREENBELT

NISHITH PATEL,

*

Plaintiff,

*

v.

*

Civil Action No. GJH-21-2409

ANNE ALBRIGHT, ET AL.,

*

Defendant.

*

ORDER

On September 20, 2021, plaintiff Nishith Patel filed the above-captioned civil rights complaint and paid the filing fee. ECF No. 1. Plaintiff alleges that defendant Albright, who is a Maryland state judge in Montgomery County Circuit Court, violated his rights when she made rulings against him in a custody dispute involving his daughter. ECF No. 1 at 2-3. Plaintiff seeks a writ of mandamus or injunction “requiring the defendant to disqualify herself from the family law case pending this litigation” and “vacating the defendant’s rulings in the family law case pending this litigation” as well as monetary and other relief. *Id.* at 5-6. The Complaint cites 42 U.S.C. § 1983 and 28 U.S.C. § 1651. On October 25, 2021, Plaintiff filed an Amended Complaint that is largely identical to the Complaint, but which adds Judges Mary Ellen Barbera and Stuart Berger as defendants. ECF No. 7. For reasons stated below, the complaint, as amended, will be dismissed.¹

“[D]istrict courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. § 1361. While a federal district court can compel an officer or

¹ On October 25, 2021, defendant Albright filed a Motion to Dismiss. ECF No. 5. Because the case is being dismissed *sua sponte*, the Motion to Dismiss will be denied as moot.

employee of the United States or its agencies to perform a duty, it has no mandamus jurisdiction over state employees and cannot compel the Maryland state courts to remove Albright as judge in plaintiff's case. *See, e.g., Gurley v. Super. Ct. of Mecklenburg Cty.*, 411 F.2d 586-87 (4th Cir. 1969).²

Section 1983 provides that a plaintiff may file suit against any person who, acting under color of state law, "subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws" of the United States. 42 U.S.C. § 1983. Section 1983 "is not itself a source of substantive rights, but merely provides 'a method for vindicating federal rights elsewhere conferred.'" *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (quoting *Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979)); *Wahi v. Charleston Area Med. Ctr.*, 562 F.3d 599, 615 (4th Cir. 2009).

Defendants Albright, Barbera, and Berger are Maryland state judges who plaintiff is suing for decisions made in their capacities as judges. The underlying cause of action in this case cannot be maintained because it is prohibited by the doctrine of judicial immunity. *See Forrester v. White*, 484 U.S. 219, 226-27 (1988) ("If judges were personally liable for erroneous decisions, the resulting avalanche of suits, most of them frivolous but vexatious, would provide powerful incentives for judges to avoid rendering decisions likely to provoke such suits."). The doctrine of judicial immunity shields judges from monetary claims against them in both their official and individual capacities. *Mireles v. Waco*, 502 U.S. 9, 9-10 (1991) (per curiam). Judicial immunity is an absolute immunity; it does not merely protect a defendant from assessment of damages, but also protects a judge from damages suits entirely. *Id.* at 11. An act is still judicial, and immunity

² The statute cited by Patel, 28 U.S.C. § 1651, states, in part, that "court established by Act of Congress may issue all writs necessary or appropriate in aid of *their respective jurisdictions*." 28 U.S.C. § 1651(a) (emphasis added).

applies, even if the judge commits “grave procedural errors.” *Id.* (quoting *Stump v. Sparkman*, 435 U.S. 349, 359 (1978)). Moreover, “judges of courts of superior or general jurisdiction are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly.” *Stump*, 435 U.S. at 355-56; *see Dean v. Shirer*, 547 F.2d 227, 231 (4th Cir. 1976) (stating that a judge may not be attacked for exercising judicial authority even if done improperly).

This Court is mindful of its obligation to liberally construe self-represented pleadings, such as the instant complaint. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007). In evaluating such a complaint, the factual allegations are assumed to be true. *Id.* at 93 (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007)). Nonetheless, liberal construction does not mean that this Court can ignore a clear failure in the pleading to allege facts which set forth a cognizable claim. *See Weller v. Dep’t of Soc. Servs.*, 901 F.2d 387 (4th Cir. 1990); *see also Beaudett v. Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985) (stating a district court may not “conjure up questions never squarely presented”). In making this determination, “[t]he district court need not look beyond the complaint’s allegations It must . . . hold the pro se complaint to less stringent standards than pleadings drafted by attorneys and must read the complaint liberally.” *White v. White*, 886 F.2d 721, 722-23 (4th Cir. 1989).

“[F]rivolous complaints are subject to dismissal pursuant to the court’s inherent authority, even when the plaintiff has paid the filing fee.” *Smith v. Kagan*, 616 F.App’x 90 (4th Cir. 2015); *see Chong Su Yi v. Soc. Sec. Admin.*, 554 F.App’x 247, 248 (4th Cir. 2014) (same); *Ross v. Baron*, 493 F.App’x 405, 406 (4th Cir. 2012) (same). In addition, “dismissal prior to service of process is permissible when a court lacks subject matter jurisdiction over a patently frivolous complaint.” *Smith*, 616 F.App’x at 90; *Chong Su Yi*, 554 F.App’x at 248 (same); *Ross*, 493 F.App’x at 406

(same). An example of a frivolous claim subject to dismissal is one with an “indisputably meritless legal theory” such as where “defendants are immune from suit.” *Neitzke v. Williams*, 490 U.S. 319, 327 (citing *Williams v. Goldsmith*, 701 F.2d 603 (7th Cir. 1983) (civil rights action based on alleged unconstitutional search and seizure was frivolous where all defendants were absolutely immune from suit)).


The defendants in the amended complaint are immune from suit under the doctrine of judicial immunity. Furthermore, this Court has no authority to issue a writ of mandamus requiring any action on the part of the Maryland state courts. As such, the complaint will be dismissed without prejudice.

Accordingly, it is this 26th day of October, 2021, by the United States District Court for the District of Maryland, hereby ORDERED that:

1. The complaint is DISMISSED without prejudice;
2. The Motion to Dismiss (ECF No. 5) is DENIED as MOOT;
3. The Clerk IS DIRECTED to MAIL plaintiff a copy of this Order; and
4. The Clerk IS FURTHER DIRECTED to CLOSE this case.



GEORGE J. HAZEL
UNITED STATES DISTRICT JUDGE

REMOTE SUPERVISED VISITATION OBSERVATION FORMCase Name: Patel v. PatelDate of Visit 02/28/2021 Scheduled Visitation Time:Visiting Party:  Patel Relationship to child(ren):
FatherCall in Time (visiting party): 10:28 Call in Time (custodial party):
10:30**Custodial Party/Child Behavior Prior to Visit**Number of visiting children: X 1 2 3 4Child appears eager to visit XChild does *not* appear eager to visit (check all that apply) Mildly Moderately Severely Expressed verbally Expressed physically Custodial parent X does does not encourage child to engage in visit.**Visiting Party/Child Greeting (check all that apply):**X Enthusiastic Child Adult X Mutual X Reciprocated No greeting by:

Child and Visiting Parent Greeted each other with great enthusiasm and verbally expressed pleasure to be engaging each other. Child screams "It's my daddy".

Activities:

☒ Parent proposes activities such as reading, playing cards, looking at school work, etc.

☒ Child proposes activities

Other: ☒ Child and Visiting parent engaged in activities together _____

Indicators of Child Comfort During the Visit (check all that apply):

☒ Relaxed Demeanor

☐ Child initiated (check all that apply):

☒ Conversation

☒ Play

☒ Eye contact made

☒ Appears to enjoy visit

Comments: _____

Indicators of Child Discomfort During the Visit (check all that apply):

☐ Verbal aggression

☐ Withdrawn behavior

☐ Excessive requests to end the visit

☐ Clock watching/asking how much time left in visit

☐ Nervous fidgeting

☐ No/very little eye contact made

Comments: None _____

Positive Actions of Visiting Party Observed (check all that apply):

☒ Allows child to pace conversation and interactions

☒ Participates in activities with child to the best of their ability

☒ Engages in age appropriate conversation

☒ Appears nurturing and supportive in interactions

☒ Gives child positive affirmations

☒ Exhibits good parenting skills

☒ **X** Initiates appropriate conversation

Comments: Visiting parent presented for session with a pleasant demeanor and remained engaged and cooperative throughout the session. Visiting parent greeted child with verbal and physical signs of enthusiasm. He exclaimed, "There is my pretty girl". Visiting parent smiled throughout the visit. Visiting parent presented two new books to the child. Visiting parent displayed enthusiasm and made playful gestures and voices to amuse child as they took turns reading pages of the book. Visiting parent asked the child about school and appeared genuinely eager to hear about child's week. Visiting parent's demeanor was consistent throughout most of the session until the child disclosed that her mother tested positive for Covid 19. Visiting parent appeared extremely concerned as he asked specifics about his daughter's status and tried to confirm that she was not in immediate danger of contracting the virus. During the visit, visiting parent participated in various activities such as reading, math and working on a book that they were creating together. Parent's response to the child's reading and math abilities were animated, which made the child laugh consistently. Per child's request, visiting parent pretended to make a stuffed bear talk and have a conversation with the child. During all activities, visiting parent gave positive affirmations and complimented the child which appeared to make the child happy. Visiting parent took time to ask child about her feelings, at which time his demeanor became more serious. Visiting parent provided encouragement, telling the child that she could talk to him about anything that was concerning her. Visiting parent sought confirmation from the child that she felt comfortable talking to him about anything. Visiting parent expressed "daddy wants to make sure that my daughter is treated well". Visiting parent expressed to child his desire to be more engaged with her as she asked him to view her live streamed gymnastics videos. Visiting parent expressed to child that he is doing everything that he can to be involved in all that she is doing. Daughter stated "try harder". Visiting parent and child ended session with air hugs.

Other observed interactions (check all that apply):

- ☒ **X** Child attempts to delay ending of visit
☒ **X** Adult prolongs ending of visit after told it is time to end
☒ **X** Child and adult appear comfortable and relaxed during visit
☒ **X** Both child and adult appear to enjoy visit
☒ **X** Visiting party's behavior is supportive of child's relationship with the other parent
☒ **X** Custodial parent's behavior is supportive of child's relationship with the other parent.

Adult Actions Which Required Intervention (check all that apply):

- ☐ Inappropriate conversation
☐ Threatening behavior by adult
☐ Attempted to or made contact with custodial party
☐ Had to be told that visit was over

☐ Had to be told that visit was ending multiple times
☐ Other

Comments: No intervention
required

Areas of Concern (check all that apply):

☐ Child displayed inappropriate knowledge of parental/adult conflicts
☐ Child's loyalties appeared divided. Child demonstrated desire not to visit at outset of the visit, but appeared to enjoy visit once it began.

Inappropriate actions of Visiting Party Observed (check all that apply):

☐ Unresponsive to child's need for emotional space
☐ Fails to take active/participatory role in conversation/activities
☐ Overly controlling
☐ Pursues conversations that are inappropriate for child's age
☐ Critical toward child
☐ Derogatory toward child
☐ Places personal needs above child's needs
☐ Inappropriate emotional expression
☐ Does not abide by ground rules
☐ Exhibits poor parenting skills
☐ Does not pay attention to child during part of visit
☐ Does not pay attention to child during most of visit
☐ Refused to listen to visitation supervisor

Separation of Child and Visiting Adult:

<input type="checkbox"/>					
<input type="checkbox"/>	Verbal Only	Child	Adult	Mutual	Reciprocated
<input checked="" type="checkbox"/>	States "I love you"	Child	Adult	Mutual	Reciprocated
<input type="checkbox"/>	No greeting by:	Child	Adult		

Other: Both parties stated "I love you, I love you more", and refused to be
the first to disconnect. Child stated "I want to see you again
daddy"

**Additional
Comments**

Post Visitation Discussion:

Supervisor discussed supervision with visiting parent and acknowledged various positive actions that took place during the session. Visiting parent verbalized how he wants to be reconnected with his daughter “in person”.

Visitation Supervisor Jamal M. Davis LCSW-C

Date: 02/28/2021

**Additional
Comments**

Post Visitation Discussion:

Supervisor discussed supervision with visiting parent and acknowledged various positive actions that took place during the session. Visiting parent verbalized how he wants to be reconnected with his daughter “in person”.

Visitation Supervisor Jamal M. Davis LCSW-C

Date: 02/28/2021

APPENDIX

E

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

NISHITH PATEL
Plaintiff

v.

Case No. 149996 FL

KRISHNA PATEL
Defendant

ORDER OF REFERRAL
(568)

It is this 25th day of March, 2021, by the Circuit Court for Montgomery County, Maryland,

ORDERED that to the extent that Plaintiff's Emergency Motion for Access to Child (DE 178) seeks to continue supervised visitation, the motion is hereby GRANTED; and it is further

ORDERED that the **Father** shall participate in the Supervised Visitation Program, and it is further,

ORDERED that a qualified visitation supervisor shall be assigned by the Family Division to supervise said visits between the minor child(ren) and the **Father**, and it is further

ORDERED, that the parents shall abide by the following terms and conditions in connection with the court-ordered visitation:

(1) The Parents are to contact Family Division Services, 240-777-9076 immediately following proceedings, to speak with a Circuit Court Evaluator for a brief intake interview and to establish the rules of conduct for the remote visitation sessions.

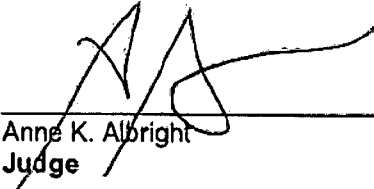
(2) Any and all communications during the remote sessions between the parents, child(ren) and the Supervisor are **NOT** confidential or privileged and may be used during the status/review hearing.

(3) The **Mother** shall make the minor child available for remote visits by telephone, tablet or computer at a date and time to be established by Family Division Services and every week thereafter for approximately 45 minutes to one hour, although the visits may be shorter depending on the age and ability of the child. There will be a total of 12 visits occurring over a three-month period.

(4) It shall be the obligation of the **Mother** to ensure that the minor child are available for each scheduled session.

(5) At any time, the Supervisor concludes that the behavior or conduct of a parent is inappropriate, that the parties are failing to cooperate with the Supervisor or that there is any risk to the minor child(ren), the

Supervisor may terminate the visit.



Anne K. Albright
Judge

***NOTICE TO PARTIES:**

**THIS IS A COURT ORDER AND IS ENFORCEABLE
THROUGH THE CONTEMPT POWERS OF THE COURT.
FAILURE TO OBEY THIS COURT ORDER MAY RESULT IN A
CONTEMPT PROCEEDING BEING BROUGHT AGAINST YOU,
WHICH MAY BE PUNISHABLE BY A FINE OR
IMPRISONMENT, OR BOTH.**

cc: Family Division Services

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

NISHITH PATEL

v.

KRISHNA PATEL

Respondent.


Case No. 149996 FL

ORDER

Upon consideration of Defendant's Motion at DE 188, and Plaintiff's Motion at DE 189, and it appearing that the parties agree that Plaintiff's supervised virtual visitation with the minor child should continue through the Court's Supervised Virtual Visitation Program, (at least while Plaintiff's Modification Motion ^{at 189} is pending before the Court) and finding that same is in the minor child's best interest at this time, it is this 6th day of August, 2021, by the Circuit Court for Montgomery County, Maryland, hereby

ORDERED AS AGREED, that Plaintiff's supervised virtual visitation through the Court's program shall continue and the Court will issue a separate referral order regarding same; and it is further

ORDERED, that to the extent that Plaintiff's Emergency Motion at DE 189 seeks modification of the Court's Order at DE 159, same shall be set for scheduling conference before a Family Division Magistrate and proceed in the ordinary course, the Court concluding that it does not present an emergency such that emergency relief would be appropriate at this time.



Anne K. Albright

Judge

Circuit Court for Montgomery County, Maryland